# End User License Agreement

for SUSE Software



## End User License Agreement for SUSE Software

PLEASE READ THIS AGREEMENT CAREFULLY. BY PURCHASING, INSTALLING, DOWNLOADING OR OTHERWISE USING THE SOFTWARE (AS DEFINED BELOW AND INCLUDING ITS COMPONENTS), YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH THESE TERMS, YOU ARE NOT PERMITTED TO DOWNLOAD, INSTALL OR USE THE SOFTWARE. AN INDIVIDUAL ACTING ON BEHALF OF AN ENTITY REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY.

SUSE LLC ("Licensor" or "SUSE") makes available software products, being a compilation of: (i) software programs developed by SUSE and is affiliates; (ii) software programs developed by third parties; (iii) trade marks owned by SUSE and/or its affiliates ("SUSE Marks"); and (iv) media or reproductions (physical or virtual) and accompanying documentation accompanying such software programs (such compilation of programs, trade marks and documentation being the "Software").

The Software is protected by the copyright laws and treaties of the United States and copyright laws in other countries worldwide. This End User License Agreement ("EULA") is a legal agreement between You (an entity or a person) and SUSE governing Your use of the Software. If the laws of Your principal place of business require contracts to be in the local language to be enforceable, such local language version may be obtained from Licensor upon written request and shall be deemed to govern Your use of the Software. Any add-on, extension, update, mobile application, module, adapter or support release to the Software that You may download or receive that is not accompanied by a license agreement is Software and is governed by this EULA.

### License Terms

#### Open Source

The Software contains many individual components that are open source software and the open source license for each component, which, depending on the software program, may be the GNU General Public License v.2 (<a href="https://www.gnu.org/licenses/oldlicenses/gpl-2.0.en.html">https://www.gnu.org/licenses/oldlicenses/gpl-2.0.en.html</a>) or Apache 2.0 (<a href="https://www.apache.org/licenses/LICENSE-2.0">https://www.apache.org/licenses/LICENSE-2.0</a>) or other open source license (each such license being the "OSS License"), is located in the licensing documentation and/or in the component's source code.

This EULA governs Your use of the Software, including SUSE Marks, and does not limit, supersede or modify your rights under the OSS License applicable to Your use of any open source code contained in the Software without the SUSE Marks.

The Software may include or be bundled with other software programs licensed under

different terms and/or licensed by a third party other than Licensor. Use of any software programs accompanied by a separate license agreement is governed by that separate license agreement.

#### License to use the Software

Subject to compliance with the terms and conditions of this EULA, Licensor grants to You a perpetual, non- exclusive, non-transferable, revocable, worldwide license to reproduce and use copies of the Software within Your Organization for Your Organization's internal use. "Organization" means a legal entity and its Affiliates. "Affiliates" means entities that control, are controlled by, or are under common control with You. The above license is conditioned upon You being responsible and liable for any breach of the provisions of this EULA by Your Affiliates.

This EULA does not permit you to distribute the Software or its components using the SUSE Marks regardless of whether the copy has been modified. You may make a redistribution outside of Your Organization: (a) of the Software, only if permitted under a separate written agreement with Licensor authorizing such redistribution, or (b) of the constituent components of the Software, only if You remove and replace all occurrences of any SUSE Mark.

If You have received, whether directly or indirectly from SUSE, hardware, software or other appliance that uses or embeds the Software, You may use the Software solely for the purpose of running that hardware, software or appliance and not on a stand-alone basis.

#### Ownership

No title to or ownership of the Software is transferred to You. Licensor and/or its third party licensors retain all right, title and interest in and to all intellectual property rights in the Software, including any adaptations or copies thereof. The Software is not sold to You, You acquire only a conditional license to use the Software. Title, ownership rights and intellectual property rights in and to the content accessed through the Software are the property of the applicable content owner and may be protected by applicable copyright or other law. This EULA gives You no rights to such content.

#### **SUSE Marks**

No right or license, express or implied, is granted under this EULA to use any SUSE Mark, trade name or service mark of Licensor or its affiliates or licensors otherwise than is necessary to use the Software as permitted by this EULA.

# Subscription Services and Support

Licensor has no obligation to provide maintenance or support unless You purchase a subscription offering, pursuant to an additional contract with Licensor or its affiliates, which expressly includes such services.

# Warranty and Liability

#### **Limited Warranty**

Licensor warrants that the media that the Software is delivered on will be free from defects in materials and manufacture under normal use for a period of sixty (60) days from the date of delivery to you. THE FOREGOING WARRANTY IS YOUR SOLE AND EXCLUSIVE REMEDY AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. SAVE FOR THE FOREGOING WARRANTY, THE SOFTWARE IS PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND.

THE SOFTWARE IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE OR DISTRIBUTION WITH, AND MUST NOT BE USED FOR, ON-LINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, COMMUNICATION, OR CONTROL SYSTEMS, DIRECT LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR OTHER USES IN WHICH FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

#### Non-Licensor Products

The Software may include or be bundled with hardware or other software programs or services licensed or sold by an entity other than Licensor. LICENSOR DOES NOT WARRANT NON-LICENSOR PRODUCTS OR SERVICES. ANY SUCH PRODUCTS OR SERVICES ARE PROVIDED ON AN "AS IS" BASIS. WARRANTY SERVICE IF ANY FOR NON-LICENSOR PRODUCTS IS PROVIDED BY THE PRODUCT LICENSOR IN ACCORDANCE WITH THEIR APPLICABLE WARRANTY.

EXCEPT AS OTHERWISE RESTRICTED BY LAW, LICENSOR DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT NOR ARE THERE ANY WARRANTIES CREATED BY COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE. LICENSOR MAKES NO WARRANTY, REPRESENTATION OR PROMISE NOT EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY. LICENSOR DOES NOT WARRANT THAT THE SOFTWARE OR SERVICES WILL SATISFY YOUR REQUIREMENTS, BE COMPATIBLE WITH ALL OPERATING SYSTEMS, OR THAT THE OPERATION OF THE SOFTWARE OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. THE FOREGOING EXCLUSIONS AND DISCLAIMERS ARE AN ESSENTIAL PART OF THIS AGREEMENT. Some jurisdictions do not allow certain disclaimers and limitations of warranties, so portions of the above limitations may not apply to You. This limited warranty gives You specific rights and You may also have other rights which vary by state or jurisdiction.

#### Limitation of Liability

NEITHER LICENSOR NOR ANY OF ITS THIRD PARTY LICENSORS, SUBSIDIARIES, OR EMPLOYEES WILL IN ANY CASE BE LIABLE FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES, WHETHER BASED ON CONTRACT, NEGLIGENCE, TORT OR OTHER THEORY OF LIABILITY, OR FOR ANY LOSS OF PROFITS, BUSINESS OR LOSS OR CORRUPTION OF DATA, IN EACH CASE, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.

IN NO EVENT WILL LICENSOR'S AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS EULA (WHETHER IN ONE INSTANCE OR A SERIES OF INSTANCES) EXCEED THE AMOUNT PAID BY

YOU FOR THE SOFTWARE OUT OF WHICH SUCH CLAIM AROSE (OR \$50 (U.S.) IF YOU DID NOT PAY FOR THE SOFTWARE), IN THE 12 MONTHS PRECEDING THE FIRST CLAIM UNDER THIS EULA.

The above exclusions and limitations will not apply to claims relating to death or personal injury caused by the negligence of Licensor or its employees, agents or contractors. In those jurisdictions that do not allow the exclusion or limitation of damages, including, without limitation, damages for breach of any implied terms as to title or quiet enjoyment of any Software obtained pursuant to this EULA or for fraudulent misrepresentation, Licensor's liability shall be limited or excluded to the maximum extent allowed within those jurisdictions.

#### **General Terms**

#### Term

This EULA becomes effective on the date You download the Software and will automatically terminate if You breach any of its terms.

#### Transfer

This EULA may not be transferred or assigned without the prior written approval of Licensor. Any such attempted transfer or assignment shall be void and of no effect.

#### Law

All matters arising out of or relating to this EULA will be governed by the substantive laws of the United States and the State of New York without regard to its choice of law provisions. Any suit, action or proceeding arising out of or relating to this EULA may only be brought before a federal or state court of appropriate jurisdiction in New York. If a party initiates EULA-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 or the European Free Trade Association, (1) the courts of England and Wales shall have exclusive jurisdiction over any action of law relating to this EULA; and (2) the laws of England shall apply except where the laws of such country of Your principal place of business are required to be applied to any such action of law, in which case the laws of that country shall apply. Neither the United Nations Convention of Contracts for the International Sale of Goods nor the New York or England and Wales conflict of law rules apply to this EULA or its subject matter.

#### **Entire Agreement**

This EULA, together with any other purchase documents or other written agreement between You and Licensor or its Affiliates, 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 EULA 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 EULA.

#### Severability

If any provision in this EULA 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 EULA will remain unaffected.

#### **Export Compliance**

You acknowledge that Licensor's products and/or technology may be subject to the U.S. Export Administration Regulations (the "EAR") and the trade laws of other countries. You agree to comply with the EAR and local laws and regulations which may be applicable to and impact Your right to import, export or use Licensor's products and/or technology. You will not export or re-export Licensor's products, directly or indirectly, to (1) entities on the current U.S. export exclusion lists or to any embargoed or terrorist supporting countries as specified in the EAR; (2) any end user who You know or have reason to know will utilize Licensor's products in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, and sounding rockets, or unmanned air vehicle systems, except as authorized by the relevant government agency by regulation or specific license; or (3) any end user who has been prohibited from participating in the US export transactions by any federal agency of the US government. You will not use Licensor's products and/or technology for prohibited nuclear, missile, or chemical biological weaponry end uses as specified in the EAR. By downloading or using the Software, You are agreeing to the foregoing and You are representing and warranting that You are not located in, under the control of, or a national or resident of any such country or on any such list. In addition, You are responsible for complying with any local laws in Your jurisdiction which may impact Your right to import, export or use Licensor's Please consult the Bureau of Industry and Security web https://www.bis.doc.gov before exporting items subject to the EAR. For more information on exporting Software, including the applicable Export Control Classification Number (ECCN) and associated license exception (as applicable), see https://www.suse.com/company/legal/. Upon request, Licensor's International Trade Services Department can provide information regarding applicable export restrictions for Licensor products. Licensor assumes no responsibility for Your failure to obtain any necessary export approvals.