

Linux Ltd. Hosting Terms and conditions

General Terms

1. THE HOSTING SERVICES AGREEMENT

The Hosting Services Agreement incorporates the following documents by reference: (i) the Services Description that describes the Services you are buying and related fees; (ii) these General Terms and Conditions containing the general terms and conditions applicable to all Services; (iii) the specific Product Terms and Conditions containing the additional terms for the particular Hosting Services you are buying; (iv) the Acceptable Use Policy; and (v) if your Hosted System will be provided from our data centre located in the United Kingdom and one or more non-U.K. jurisdictions, the Country Specific Terms that may be applicable in those jurisdictions. When we use the term “Hosting Services Agreement” or “Agreement” in any of these documents, we are referring collectively to all of them. The Agreement is effective as of the time that you sign the form of Agreement prepared by Linux, or accept the Agreement as part of Linux’s online order process.

2. DEFINED TERMS

Some words used in the Agreement have particular meanings:

“Acceptable Use Policy” or “AUP” means the Linux Acceptable Use Policy posted at [insert actual url, at least to landing page] as of the date you sign the Agreement.

“Business Day” or “Business Hours” means 8:00 a.m. – 5:30 p.m. Monday through Friday, excluding public holidays in the United Kingdom.

“Confidential Information” means all information disclosed by one of us to the other, whether before or after the effective date of the Agreement, that the recipient should reasonably understand to be confidential, including: (i) for you, all information transmitted to or from, or stored on, your Hosted System, (ii) for Linux, unpublished prices and other terms of service, audit and security reports, product development plans, solution diagrams, data centre designs (including non-graphic information you may observe on a tour of a data centre), and other proprietary information or technology, and (iii) for both of us, information that is marked or otherwise conspicuously designated as confidential. Information that is independently developed by one of us, without reference to the other’s Confidential Information, or that becomes available to one of us other than through breach of the Agreement or applicable law, shall not be “Confidential Information” of the other party.

“Country Specific Terms” means the addendum or addenda that may be incorporated into your Hosting Services Agreement if a portion of your Services are to be provided from a non-United Kingdom jurisdiction for which we have special legal terms.

“Hosted System” means a combination of hardware, software and networking elements that comprise an information technology system. Depending on the Services you are buying, the Hosted System may consist of a dedicated system for your use only, or the right to use certain parts of a shared system that Linux maintains for many customers, or a combination of some dedicated elements and some shared elements.

“Hosting Services” means: (i) Linux’s provision for your use of the Hosted System described in the Services Description, and (ii) Support.

“Product Terms and Conditions” means the terms and conditions that are incorporated by reference in your Hosting Services Agreement and that state additional terms and conditions for the particular Hosting Services you are buying.

“Services Description” or “Services Description” means a written description of the Hosted System and/or Supplementary Services you are buying from Linux, and related fees, that is incorporated by reference in the Agreement, including any “plan” or other name given to a Services description that you submit to Linux as part of an online order process.

“Service Level Guarantee” or “Service Level Guarantees” means a guarantee or guarantees identified as a “Service Level Guarantee” or “Service Level Guarantees” in the applicable Product

Terms and Conditions.

“Services” means Hosting Services and Supplementary Services, collectively.

“Supplementary Services” means those services you purchase from Linux other than the Hosting Services, such as database administration or “DBA” services, and assistance or support for the application that you operate on your Hosted System.

3 OUR OBLIGATIONS

3.1.1 Linux’s obligation to begin providing Services is contingent on your satisfaction of Linux’s credit approval criteria.

3.1.2 Linux will provide the Hosting Services in accordance with the Services Description, the Service Level Guarantees, and other specifications in this Agreement.

3.1.3 Linux will perform any Supplementary Services in a good and professional manner.

3.1.4 Linux will perform all Services in accordance with applicable law.

3.2 Prices for all services will be made at point of sale.

3.3 Prices are final and will not be altered during the order and fulfilment process.

3.4 Renewal Notices:

3.4.1 Any change in renewal terms or costs will be notified by email according to the processes in 3.4.

3.4.3 Monthly subscriptions will be notified 10 days in advance by email.

3.4.4 Annual subscriptions will be notified that renewal is required on 60 days, 30 days and 10 days before renewal by email.

3.4.5 Bi Annual Domain name renewals follow the same process as 3.4.4.

3.4.6 For Clarity: All costs involved in continuing your services/domain registration will be outlined within the emailed order.

3.4.7 Migrating or Transferring a service or domain name to another provider or registrar are exempt of charges.

3.4.8 Termination of domain agreements are exempt of charges.

4. YOUR OBLIGATIONS

You must use reasonable security precautions in connection with your use of the Services. You must comply with the laws applicable to your use of the Services and with the Acceptable Use Policy. You must cooperate with Linux’s reasonable investigation of Service outages, security problems, and any suspected breach of the Agreement. You are responsible for keeping your account permissions, billing, and other account information up to date using your portal or via another Linux defined process. You must pay when due the fees for the Services stated in the Services Description or other agreement between us. If there is a dispute with respect to any portion of an invoice, you shall pay the undisputed portion of the fees promptly and provide written details specifying the basis of any dispute. Each of us agrees to work together to promptly resolve any disputes.

5. PROMISES WE DO NOT MAKE

5.1 We do not promise that the Services will be uninterrupted, error-free, or completely secure. You acknowledge that there are risks inherent in Internet connectivity that could result in the loss of your privacy, Confidential Information and property.

5.2 We disclaim any and all warranties not expressly stated in the Agreement to the maximum extent permitted by law, including the implied warranties relating to satisfactory quality and fitness for a particular purpose. You are solely responsible for the suitability of the services chosen. Any services that we are not contractually obligated to provide but that we may perform for you at your request and without any additional charge are provided on an ‘AS IS’ basis.

5.3 We do not have knowledge of the data you store within your Hosted System, including the quantity, value or use of the data. You are therefore responsible to take all reasonable steps to mitigate the risks inherent in the provision of the Services, including data loss. The Services that Linux has agreed to provide to assist you to mitigate such loss (if required) are set out in the

Services Description, which may include backup services and geographically redundant servers. Linux does not promise to back up your data unless you have purchased backup services. If you purchase backup services Linux does not promise to retain any data backup(s) for longer than the agreed data retention period as set out in the Services Description. In all events, you release Linux from liability for loss of data to the extent that the data has changed since the time that we were last required by the Agreement to perform a backup.

5.4 We will provide Support only to your administrative or technical contacts listed on your account. We will not provide support directly to your end users unless specifically agreed in writing.

5.5 Certain Linux Services are designed to help you comply with various regulatory requirements that may be applicable to you. However, you are responsible for understanding the regulatory requirements applicable to your business and for selecting and using those Services in a manner that complies with the applicable requirements.

6. UNAUTHORISED ACCESS TO YOUR DATA OR USE OF THE SERVICES

Linux is not responsible to you or any third party for unauthorised access to your data or the unauthorised use of the Services unless the unauthorised access or use results from Linux's failure to meet its security obligations. You are responsible for the use of the Services by any employee of yours, any person you authorize to use the Services, any person to whom you have given access to the Services, and any person who gains access to your data or the Services as a result of your failure to use reasonable security precautions, even if such use was not authorised by you.

7. TAXES ON SERVICES

If Linux is required by law to collect taxes on the provision of the Services, you must pay Linux the amount of the tax that is due or provide Linux with satisfactory evidence of your exemption from the tax. You must provide Linux with accurate factual information to help Linux determine if any tax is due with respect to the provision of the Services.

8. EXPORT MATTERS

You represent and warrant that you will not use the Services for the development, design, manufacture, production, stockpiling, or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles, nor will you provide administrative access to the Services to any persons (including any natural person, government or private entity or other form of body corporate) that is located in or is a national of any country that is embargoed or highly restricted under United Kingdom export regulations.

9. CHANGES TO THE ACCEPTABLE USE POLICY

9.1 We may change the Acceptable Use Policy to add or modify restrictions on our customers' use of the Services, provided that the changes are reasonable and consistent with hosting industry norms. If we make a change to the AUP we will publish a revised version of the AUP at [same here]The revised AUP will become effective as to you on the first to occur of:

9.1.1 the first day of a renewal term for the Agreement that begins at least thirty (30) days after the time that the revised AUP has been posted;

9.1.2 your execution of a new or additional agreement for all or part of your Hosted System that incorporates the revised AUP by reference; or

9.1.3 thirty (30) days following our written notice to you of the revision to the AUP.

9.2 If your compliance with the revised AUP would adversely affect your use of the Hosting Services, and you give a written notice of your objection no later than thirty (30) days following the date that the revised AUP would otherwise have become effective as to you, we will not enforce the revision as to you until sixty (60) days following the date the revision would otherwise have become effective as to you, and you will continue to be subject to the prior version. During the sixty (60) day period, you may elect to terminate the Agreement on these grounds by giving written notice. We will not charge you an early termination fee for a termination on these grounds. If you do not elect to terminate during the sixty (60) day period, then the revised AUP will become effective as to you as of the end of the sixty (60) day period. If you terminate your Services under this Subsection, we may decide to waive that change as to you and keep your Agreement in place for the

remainder of the term.

10. SUSPENSION OF SERVICES

10.1 We may suspend Services without liability if:

10.1.1 we reasonably believe that the Services are being used in breach of the Agreement;

10.1.2 you don't cooperate with our reasonable investigation of any suspected violation of the Agreement;

10.1.3 there is an attack on your Hosted System or your Hosted System is accessed or manipulated by a third party without your consent;

10.1.4 we are required by law to suspend your Services; or

10.1.5 there is another event for which we reasonably believe that the suspension of Services is necessary to protect the Linux network or our other customers.

10.2 We will give you advance notice of a suspension under this clause of at least twelve (12) Business Hours unless we determine in our reasonable commercial judgment that a suspension on shorter or contemporaneous notice is necessary to protect Linux or its other customers from imminent and significant operational or security risk. If your Hosted System is compromised, then you must address the vulnerability prior to Linux placing the Hosted System back in service or, at your request, we may be able to perform this work for you at our standard hourly rates as a Supplementary Service.

11. TERMINATION FOR BREACH

11.1 You may terminate the Agreement for breach if we:

11.1.1. materially fail to provide the Services as agreed and do not remedy that failure within ten (10) days of your written notice describing the failure;

11.2 We may terminate the Agreement for breach if:

11.2.1. we discover that the information you provided for the purpose of establishing the Services is materially inaccurate or incomplete;

11.2.2. the individual signing the Agreement did not have the legal right or authority to enter into the Agreement on behalf of the person represented to be the customer;

11.2.3. your payment of any invoiced amount is overdue and you do not pay the overdue amount within four (4) Business Days of our written notice;

11.2.4 you have made payment arrangements via credit card or other third party, and the third party refuses to honour our charges;

11.2.5. you fail to comply with any other obligation stated in the Agreement and do not remedy the failure within thirty (30) days of our written notice to you describing the failure;

11.2.6. you breach the AUP more than once even if you remedy each breach; or

11.2.7. your agreement for any other Linux service is terminated for breach of the acceptable use policy applicable to that service.

12. CONFIDENTIAL INFORMATION

12.1 Each of us agrees not to use the other's Confidential Information except in connection with the performance or use of the Services, as applicable, the exercise of our respective legal rights under the Agreement, or as may be required by law. Each of us agrees not to disclose the other's Confidential Information to any third person except as follows:

12.1.1 to each of our respective service providers, agents and representatives, provided that such service providers, agents or representatives agree to confidentiality measures that are at least as stringent as those stated in this General Terms and Conditions; or

12.1.2. to a law enforcement or government agency if requested, or if either of us reasonably believes that the other's conduct may violate applicable criminal law;

12.1.3. as required by law; or

12.1.4. in response to a court order or other compulsory legal process, provided that each of us agrees to give the other written notice of at least seven (7) days prior to disclosing Confidential Information under this clause (or prompt notice in advance of disclosure, if seven (7) days advance notice is not reasonably feasible), unless the law forbids such notice.

13. LIMITATION ON DAMAGES

13.1.1 Subject to clause 13.2, but without prejudice to Linix's right to the fees for the Services, including any early termination fee (if applicable) and your right to service credits under the applicable Service Level Guarantee:

13.1.1. each party's liability to the other for direct loss or damages whether in tort (including, without limitation, negligence), contract or otherwise, is limited to and shall not exceed:

13.1.1.1 for Hosting Services, an amount that is twelve (12) times the monthly recurring fee under this Agreement as of the time of the occurrence of the event(s) giving rise to the claim; and

13.1.1.2 for Supplementary Services, fees paid for the Supplementary Services that are the subject of the claim;

13.1.2 neither party will be liable to the other in any way for any special, incidental, economic, or indirect loss or damages, or for loss of data, loss of profits, revenues, customers or contracts, wasted management time, increased costs or expenses, whatsoever and howsoever arising including in connection with the performance, non-performance or delayed performance of the Services or otherwise under this Agreement even if that party has been advised by the other or should have reasonably been aware of the possibility of such loss.

13.2. Nothing in this Agreement limits or excludes either party's liability for any loss or damages resulting from:

13.2.1 death or personal injury caused by its negligence; and

13.2.2 any fraud or fraudulent misrepresentation.

13.3. The service credits stated in the Service Level Guarantee are your exclusive remedy for Linix's failure to meet those guarantees for which service credits apply.

14. INDEMNIFICATION

14.1 If we, our affiliates, or any of our or their respective employees, agents, or suppliers (the "Indemnitees") is faced with a legal claim by a third party arising out of your actual or alleged negligence, breach of law, failure to meet the security obligations required by the Agreement, breach of the AUP, breach of your agreement with your customers or end users, or breach of Section 8 (Export Matters) or Section 16 (Software) of this General Terms and Conditions, then you will pay the cost of defending the claim (including reasonable legal fees) and any damages award, fine or other amount that is imposed on the Indemnitees as a result of the claim. Your obligations under this clause include claims arising out of the acts or omissions of your employees or agents, any other person to whom you have given access to the Services, and any person who gains access to the Services as a result of your failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorised by you. You must also pay reasonable legal fees and other expenses we incur in connection with any dispute between persons having a conflicting claim to control your account with Linix, or any claim by your customer or end user arising from an actual or alleged breach of your obligations to them.

14.2 We will choose legal counsel to defend the claim, provided that these decisions must be reasonable and must be promptly communicated to you. You must comply with our reasonable requests for assistance and cooperation in the defense of the claim. We may not settle the claim without your consent, although such consent may not be unreasonably withheld, delayed or conditioned. You must pay reasonable legal fees and expenses due under this clause as we incur them.

15. PUBLICITY

You agree that we may publicly disclose that we are providing Services to you and may use your name and logo to identify you as our customer in promotional materials, including press releases. We will not use your name or logo in a manner that suggests an endorsement or affiliation.

16. SOFTWARE

16.1 General. You may not copy any software we provide for your use, unless expressly permitted by this Agreement. You may not remove, modify or obscure any copyright, trade mark, or other proprietary rights notices that appear on any software we provide for your use. Unless permitted by the terms of an open source software licence, you may not reverse engineer, decompile or

disassemble any software we provide for your use except and to the extent that you are expressly permitted by applicable law to do this, and then following at least ten (10) days advance written notice to Linux. In addition to the terms of this Agreement, your use of any Microsoft® software is governed by Microsoft's licence terms, including use restrictions on Microsoft software that is provided for your use under a subscriber access licence or "SAL" or an "anonymous" licence as indicated in your Services Description. If you use any non-Linux supplied software on your Hosted System, you represent and warrant to Linux that you have the legal right to use the software in that manner. On Linux's request you will certify in writing that you are in compliance with this clause and any other software licence restrictions that are part of the Agreement, and will provide reasonable evidence of your compliance as we may reasonably request.

16.2 Customer Provided Licences. If we have has agreed to install, patch or otherwise manage software for you in reliance on your licence with a software vendor (rather than Linux's licence with the software vendor), then you represent and warrant that you have a written licence agreement with the software vendor that permits Linux to perform these activities. You agree that you will provide Linux with evidence of licensing as Linux may reasonably require prior to the scheduled deployment date, and from time to time as necessary to update the status of the licence. If you fail to provide the required evidence of licensing, Linux may, at its option, either:

16.2.1. delay the deployment date for the Hosted System that was to include such software until such time as the required evidence is provided;

16.2.2. deploy the Hosted System in reliance on Linux's licensing agreement with the software vendor, and charge you its standard fee for the use of the software until such time as the the required evidence is provided;or

16.2.3. suspend or terminate the Agreement.

Your licensed software may not be compatible with our standard process for deploying and repairing Hosted Systems. In addition, in order to install the software, Linux may require you to send the physical or electronic media provided to you by the software vendor, both for deployment, and again in the event of a failure of your Hosted System. You agree that Linux will not be in breach of any Service Level Guarantee or other obligation under this Agreement that would not have occurred but for the delay resulting from our agreement to use your licensed software.

17. RECOMMENDATIONS

Linux personnel may from time to time recommend third party software or other products and services for your consideration. **LINUX MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING SUCH PRODUCTS AND SERVICES.** Your use of any products and services not provided by Linux is governed by the terms of your agreement with the provider of those products and services, and is at your sole risk. Linux is not responsible in any way for the third party product's performance, features nor failures.

18. WHO MAY USE THE SERVICES

You may permit your subsidiaries and affiliated companies to use the Services if you wish. Linux will provide support only to you, not to your customers, subsidiaries or affiliates. There are no third party beneficiaries to the Agreement, meaning that your customers, subsidiaries, affiliates, and other third parties do not have any rights against either of us under the Agreement.

19. DATA CENTRES

We are constantly upgrading our data centre facilities and in order for you to benefit from this, you agree that we may relocate your servers within our data centres, make changes to the provision of the Services, URLs and your IP addresses and may establish new procedures for the use of the Services. In each case we will give you reasonable advance notice and use all reasonable endeavours to minimise the effect that such change will have on your use of the Services.

20. NO HIGH RISK USE

You may not use the Services in any situation where failure or fault of the Services could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, you may not use, or permit any other person to use, the Services in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or medical life support devices.

21. SERVICES MANAGEMENT AGENT

You agree that you will not interfere with any services management software agent(s) that Linix installs on your Hosted System. Linix agrees that its agents will use only a minimal amount of computing resources, and will not interfere with your use of your Hosted System. Linix will use the agents to track the hardware and software that Linix provides, so that it can more efficiently manage various service issues, such as patching exceptions and product life cycles. Linix may also use the software to identify security vulnerabilities. Linix will not use the agents to view or capture your content or data. Your Services will become “unsupported” as described in the Product Terms if you disable or interfere with our service management software agents. You agree that Linix may access your Hosted System to reinstall services management software agents if you disable or interfere with their performance.

22. NOTICES

Your routine communications regarding the Services, including any notice of non-renewal, should be sent to your Linix account team using your portal. If you want to give a notice regarding termination of the Agreement for breach, indemnification, or other non-routine legal matter, you should send it by electronic mail and first class post to:

admin@linix.co.uk

Linix Limited

88 Venture Point West

Evans Road

Speke

Merseyside

L24 9PB

Linix’s routine communications regarding the Services and legal notices will be sent to the individual(s) you designate as your contact(s) on your account either by electronic mail (including an electronic mail referring you to a ticket posted on your portal), first class post, or overnight courier, except that Linix may give notice of an amendment to the AUP by posting the notice on your portal. Notices are deemed received as of the time delivered, or if that time does not fall on a Business Day, as of the beginning of the first Business Day following the time delivered, except that notices of AUP amendments are deemed delivered as of the first time that you log on to your portal after the time that the notice is posted. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day. Notices must be given in the English language.

23. OWNERSHIP OF INTELLECTUAL PROPERTY

Each of us retains all right, title and interest in and to our respective trade secrets, inventions, copyrights and other intellectual property. Any intellectual property developed by Linix during the performance of the Service(s) shall belong to Linix unless we have agreed with you in advance in writing that you shall have an interest in the intellectual property.

24. OWNERSHIP OF OTHER PROPERTY

You do not acquire any ownership interest in or right to possess the Hosted System, and you have no right of physical access to the Hosted System. We do not acquire any ownership interest in or right to the information you transmit to or from or store on your Linix servers or other devices or media.

25. INTELLECTUAL PROPERTY INFRINGEMENT

If Linix or any of its customers is faced with a credible claim that the Services infringe the intellectual property rights of a third party, and Linix is not reasonably able to obtain the right to use the infringing element or modify the Services such that they do not infringe, then Linix may terminate the Services on reasonable notice of at least ninety (90) days, and will not have any liability on account of such termination except to refund amounts paid for Services not used as of

the time of termination.

26. ASSIGNMENT/SUBCONTRACTORS

Neither party may assign the Agreement without the prior written consent of the other party except as part of a bona fide corporate reorganisation or a sale of its business. Linix may use third party service providers to perform all or any part of the Services, but Linix remains responsible to you under this Agreement for Services performed by its third party service providers to the same extent as if Linix performed the Services itself.