



AWS MARKETPLACE PURCHASE TERMS

These AWS Marketplace Purchase Terms, and Customer's receipt and licensed use of the Marketplace Purchase, are subject to the Rackspace Master Services Agreement (presently found at the following URL: <https://www.rackspace.com/information/legal/msa>) and any Product Terms incorporated below, as may be updated by Rackspace from time to time. Acceptance of these AWS Marketplace Purchase Terms (including the Master Services Agreement) shall not replace or supersede Customer's pre-existing and negotiated Agreement with Rackspace for any Services purchased from Rackspace by Customer, other than the Marketplace Purchase. These AWS Marketplace Purchase Terms shall take precedence over any other conflicting term of the Agreement. Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Master Services Agreement; however, notwithstanding anything to the contrary in the Agreement, "Rackspace" or "we" shall mean Rackspace US, Inc. This Agreement constitutes the complete and exclusive understanding between the parties regarding the subject matter contained herein, and shall supersede and replace any prior understanding or communication, written or oral. The individual accepting this Agreement represents to Rackspace that they are authorized to do so on behalf of Customer. By purchasing the Marketplace Purchase, Customer accepts this Agreement, including any document or terms referenced herein.

1. ADDITIONAL DEFINITIONS.

"AWS" means Amazon Web Services, Inc.

"AWS Marketplace" means the marketplace operated by AWS currently located at <https://aws.amazon.com/marketplace/>, as it may be updated by AWS from time to time.

"Marketplace Purchase" means any content, solution, product or service promoted to Customer, or to which Customer is granted access, is licensed or purchases from Rackspace through the AWS Marketplace.

2. APPLICABLE PRODUCT TERMS.

2.1. Rackspace DataOps. If Customer purchases Rackspace DataOps as a Marketplace Purchase, the following additional Product Terms shall also apply to the Customer's licensed use of the Rackspace DataOps product; and the tier and Fees shall be as selected on the AWS Marketplace: <https://www.rackspace.com/information/legal/RackspaceDataOps>.

2.2. Rackspace Elastic Engineering. If Customer purchases Rackspace Elastic Engineering as a Marketplace Purchase, the following additional Product Terms shall also apply to the Customer's licensed use of the Rackspace Elastic Engineering product; and the tier and Fees shall be as selected on the AWS Marketplace: <https://www.rackspace.com/information/legal/rackspaceelasticengineering>.

2.3. Rackspace Elastic Engineering for Security. If Customer purchases Rackspace Elastic Engineering for Security as a Marketplace Purchase, the following additional Product Terms shall also apply to the Customer's licensed use of the Rackspace Elastic Engineering for Security product; and the tier and Fees shall be as selected on the AWS Marketplace: <https://www.rackspace.com/information/legal/ree-for-security>.

2.4. Rackspace Government Cloud Secure Compliance Baseline. If Customer purchases Rackspace Government Cloud Secure Baseline Services as a Marketplace Purchase, the following additional Product Terms shall also apply to the Customer's licensed use of the Rackspace Teams product; and the Compliance Baseline, Software, Fees and units of usage shall be as selected on the AWS Marketplace: <https://www.rackspace.com/information/legal/SecureBaselineServices>.

2.5. Rackspace Professional Services. If Customer purchases Rackspace Professional Services as a Marketplace Purchase, the following additional Product Terms shall also apply to the Customer's licensed use

of the Rackspace Professional Services, and the hours or number of Sprints and Fees shall be as selected on the AWS Marketplace: <http://www.rackspace.com/information/legal/marketplacePS>.

2.6. Rackspace Teams. If Customer purchases Rackspace Teams as a Marketplace Purchase, the following additional Product Terms shall also apply to the Customer's licensed use of the Rackspace Teams product; and the tier and Fees shall be as selected on the AWS Marketplace: <http://www.rackspace.com/information/legal/rackspacetteams>.

2.7. Rackspace Strategy Session. Rackspace Strategy Sessions available for purchase through the AWS Marketplace include: Start-up Challenges Advisory Session; SaaS Readiness Advisory Session; Data Strategy Session; and AI & ML Strategy Session (collectively "**Strategy Session**"). A Strategy Session is a one to two hour consultation (depending on the selected Strategy Session) during which time Rackspace will provide Customer guidance related to the subject matter of the selected Strategy Session. Customer is not obligated to purchase any Services recommended during the Strategy Session, however, should Customer chose to purchase any Services recommended during a Strategy Session, Customer will be required to enter into a new Service Order relevant to those Services purchased. A Strategy Session purchased through the AWS Marketplace may incur a nominal Fee to comply with AWS Marketplace requirements.

2.8. VM Management Platform Services. If Customer purchases Rackspace VM Management Platform Services as a Marketplace Purchase, and does not purchase the full/standard version of Rackspace Modern Operations, then the Modern Operations Product Terms, as applicable solely to the VM Management Platform Services shall also apply. Notwithstanding, all terms relevant to Customer pricing, ordering, and consumption of support hours shall be per the AWS Marketplace terms, and provisions of Modern Operation Product Terms relevant to permissible hourly consumption, overconsumption, overages, account review and notices, shall not be applicable. If Customer purchases Rackspace VM Management Platform Services together with the full/standard version of Modern Operations, then the Modern Operations Product Terms shall apply in all respects (except as otherwise indicated in these AWS Marketplace Purchase Terms). "Modern Operations Product Terms" means the terms posted at: <https://www.rackspace.com/information/legal/modern-operations>

3. PAYMENT OBLIGATIONS. Notwithstanding anything to the contrary in the Agreement, Customer shall pay Rackspace via AWS (as payment agent) for its Marketplace Purchases if instructed to do so. Customer shall pay Taxes to AWS in AWS' own name, if required by applicable law. Customer agrees to pay all invoices to Rackspace as they become due. Notwithstanding anything to the contrary in Customer's Agreement, if there is an error in Customer's invoice related to a Marketplace Purchase, Customer agrees to pay any such disputed invoice as due, and Rackspace shall work with Customer in good faith to correct the error. In the event Customer is owed a refund or credit, Rackspace shall remit such refund via the AWS Marketplace site or credit to Customer's account once it has been made available to Rackspace. If it is determined that Customer owes Fees in excess of Customer's initial invoice, Customer agrees to pay Rackspace accordingly. In addition to any other rights and remedies that Rackspace may have under the Agreement, Rackspace may deduct any outstanding debit and any applicable Fees from future transaction proceeds.

4. SUSPENSION AND TERMINATION. Rackspace may suspend Customer's receipt and use of the Marketplace Purchase upon notice if Customer violates the Agreement (including these AWS Marketplace Purchase Terms). Rackspace may terminate Customer's use of the Marketplace Purchase at any time for any reason, upon 30 days' prior written notice; or immediately and without notice if required to do so by operation of law or by AWS.

5. USE RESTRICTIONS. Customer may only use the Marketplace Services consisting of professional services in connection with AWS services or other AWS Marketplace purchases. Customer shall not use the Marketplace Purchase in any situation where failure or fault of the Marketplace Purchase could lead to death or serious bodily injury of any person, or to physical or environmental damage (including any use in connection with aircraft or other modes of human mass transportation, or nuclear or chemical facilities, other nuclear explosive devices, or missiles capable of delivering such weapons). Customer may not resell the Marketplace Purchase. Customer represents and warrants that Customer and its end users are not subject to sanctions or otherwise designated on any list of prohibited or restricted parties, or owned or controlled by such a party, including the lists maintained by the United Nations Security Council, the U.S. Government (e.g., OFAC's Specially Designated Nationals List and Foreign

Sanctions Evaders List and the U.S. Department of Commerce's Entity List), the European Union or its member states, or other applicable government authority). Notwithstanding anything to the contrary in the Agreement, where Customer or Customer's end user of the Marketplace Purchase is any agency or instrumentality of the United States the US Public Sector Terms found at <https://www.rackspace.com/information/legal/uspublicsectorterms> shall be incorporated in this Agreement.

6. COUNTRY UNIQUE TERMS - AUSTRALIAN CONSUMERS. If Customer is a consumer, as defined under the Australian Competition and Consumer Act 2010 (Cth) ("**Consumer Law**"), then notwithstanding anything to the contrary in the Agreement, the following terms shall prevail as to goods and services (as defined by Consumer Law) to the extent of any inconsistency with any other provision of the Agreement:

6.1. Non-excludable Rights. Nothing in the Agreement excludes any implied condition, warranty, right or guarantee if that exclusion would contravene any statute (including Consumer Law) or cause any part of the Agreement to be void ("**Non-excludable Right**"). Rackspace's total liability for breach of any Non-excludable Right which may be limited by law, is limited at Rackspace's option to: (i) resupplying or replacing or repairing, or paying the cost of resupplying or replacing or repairing, the goods in respect of which the breach occurred; or (ii) supplying again, or paying the cost of supplying again, the services in respect of which the breach occurred.

6.2. Mandatory Wording. Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled to cancel your service contract with us; and to a refund for the unused portion, or to compensation for its reduced value. You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

7. DISCLAIMERS. To the maximum extent permitted by applicable law, the Marketplace Purchase is provided AS-IS; and Rackspace makes no representation, warranty, or condition of any kind, whether express, implied, statutory or otherwise regarding the Marketplace Purchase provided by or on behalf of Rackspace. To the maximum extent permitted by applicable law, Rackspace and each of its Affiliates and Representatives disclaim any and all warranties, including any implied warranties of merchantability, satisfactory quality, fitness for a particular purpose, non-infringement, or quiet enjoyment and any warranties arising out of any course of dealing or usage of trade. Rackspace makes no representation or warranty that any content will be secure or not otherwise lost or damaged. Rackspace and its respective Affiliates' and Representatives' aggregate liability in connection with any and all claims in related to this Agreement shall not exceed the lesser of (i) one months' transaction proceeds accrued by Rackspace under these AWS Marketplace Purchase Terms for Customer's applicable Marketplace Purchase(s); or (ii) US\$100,000.

8. NOTICES & CHANGES. Notwithstanding anything in the Agreement to the contrary, notices correctly sent by Rackspace through the AWS Marketplace shall also be deemed as effective. Notwithstanding anything in the Agreement to the contrary, Rackspace may amend or update these AWS Marketplace Terms at any time and at its sole discretion. Any changes will be effective upon the posting of such changes on the Rackspace website, and Customer is responsible for reviewing this location and informing itself of all applicable changes or notices. Customer should refer regularly to the Rackspace website to review the current terms. CUSTOMER'S CONTINUED RECEIPT OR USE OF THE MARKETPLACE PURCHASE AFTER RACKSPACE'S POSTING OF ANY CHANGES SHALL CONSTITUTE CUSTOMER'S ACCEPTANCE OF SUCH CHANGES OR MODIFICATIONS.

9. PRIVACY POLICY. By making a Marketplace Purchase, Customer expressly consents to Rackspace processing their subscription information in accordance with the Rackspace Privacy Statement (<https://www.rackspace.com/information/legal/privacystatement>). Rackspace group companies may use the subscription information provided by Customer to provide the Services, to send direct marketing messages, and for other purposes.