

Rocky Linux from CIQ End User License Agreement

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This Rocky Linux from CIQ and Derivatives of Rocky Linux from CIQ End User License Agreement (this "Agreement") is between Ctrl IQ, Inc. with offices at 5340 Kietzke Ln, Suite 103, Reno, NV 89511 ("Ctrl IQ") and the applicable customer ("Customer" or "you") that has licensed the Software (as defined below) directly from Ctrl IQ, from a marketplace in which the Software is offered, or from an authorized reseller (a "Reseller"). Any references to a "party" in this Agreement will mean Customer and Ctrl IQ. By entering into either this Agreement or purchasing a license to the Software, Customer hereby agrees to all terms and conditions of this Agreement. If you use the Software on behalf of a company or other entity then "you" or "Customer" includes you and that entity, and you represent and warrant that (a) you are an authorized representative of the entity with the authority to bind the entity to this Agreement, and (b) you agree to this Agreement on the entity's behalf. This Agreement is not intended to conflict with or restrict the terms of any open source license applicable to the Software. However, Ctrl IQ is offering Customer certain rights beyond those set forth in the applicable open source license as set forth in this Agreement.

1. Certain Definitions.

The following terms when capitalized have the meanings specified below:

"Authorized User" means an individual authorized by Customer to use the Software.

"Licensed Host" means the Customer's host or server whereon the Software is installed.

"Invoice" means a written statement sent by Ctrl IQ or a Reseller to Customer, or provided via a marketplace, that specifies Customer's purchase of a license to the Software and all related fees.

"Professional Services" means consulting, implementation, training, or other professional services provided by Ctrl IQ as may be mutually agreed upon from time to time as set forth in a Statement of Work.

"Software" means Rocky Linux from CIQ ("RLC") and certain derivatives or variants provided by Ctrl IQ from time to time, including but not limited to Rocky Linux derivatives specialized for security, AI, engineering, HPC, long-term support, regulatory compliance, or other use-cases, as identified on the relevant Invoice, together with updates and improvements thereof provided by Ctrl IQ under this Agreement.

"Statement of Work" means any statements of work for Professional Services, in each case as may be mutually agreed upon and executed by the Parties or between Reseller and Customer that reference this Agreement.

"Subscribed Services" means any support services subscribed to by the Customer under an applicable Invoice. **Support services are not included with a subscription to the Software and must be purchased separately.**

"Subscription Commencement Date" means the date of a confirmed order of the Software, whether via a marketplace, from Ctrl IQ directly, or from a Reseller. The Subscription Commencement Date begins immediately upon a confirmed order of the Software regardless of whether Customer has paid for the license or downloaded the Software.

"Third-Party Software" means any software from third parties that may be distributed with the Software under separate license terms not governed by this Agreement.

"Unit" means the basis upon which fees are determined for the Software, which may include but is not limited to Licensed Hosts, nodes, systems, cores, sites, or other metrics as set forth in the applicable Invoice.

2. Subscription Term.

The term of the license to the Software shall commence as of the Subscription Commencement Date and, remain in effect for a period of one year (the "Initial Subscription Term") unless earlier terminated in accordance with a Party's rights hereunder or by mutual written agreement of the Parties. The term will automatically renew following the Initial Subscription Term for consecutive periods of one (1) year each (each a "Renewal Term", and together with the Initial Subscription Term, the "Subscription Term") until either Party provides the other Party with written notice of its intent not to renew the Initial Subscription Term (or the then-current Renewal Term) at least thirty (30) days before the end of the Initial Subscription Term or the then-current Renewal Term. The pricing for any Renewal Term may change in Ctrl IQ's sole discretion, provided that Ctrl IQ will provide Customer notice at least 30 days prior to any price increase.

3. Software Updates.

a. **Change, Interruption, or Suspension.** Subject to continued compliance with this Agreement, Ctrl IQ may modify, amend, alter, supplement or replace the Software from time to time, in whole or in part. Ctrl IQ will provide Customer with at least 30 days' notice of any significant changes in the Software. Ctrl IQ reserves the right to suspend the performance of the Software to the Customer, when such action is necessary for the security and integrity of Ctrl IQ's networks and systems, in Ctrl IQ's sole and absolute discretion, including if Customer's access patterns to the Software indicate misuse as determined by Ctrl IQ in its sole discretion.

b. **Updates.** Ctrl IQ may make available to Customer updates and upgrades to the Software as such updates and upgrades are generally made available to Ctrl IQ's other customers. However, Customer acknowledges and agrees that purchases of Software are not contingent on the delivery of any future functionality or features. Customer is solely responsible for any costs required in connection with the implementation of any updates or upgrades.

c. **Excessive Data Use.** If Customer's data usage under this Agreement exceeds 10 terabytes in any 12 month period, Ctrl IQ reserves the right, at its sole discretion, to (i) reduce the Customer's data transfer speeds or impose other usage limitations to manage network performance; (ii) modify the terms of this Agreement, including pricing or service levels, to account for the excessive usage; and (iii) terminate this Agreement or suspend access to the Software or the provision of services to the Customer.

d. **Telemetry and Usage Data Collection.** Ctrl IQ may collect technical usage data and system metadata to verify license compliance, improve products, and facilitate service delivery. This includes product usage metrics, system configuration data, cloud instance metadata, and network identifiers. We collect this data based on our legitimate interests in license management and service delivery. Data will be retained for up to three (3) years and will be limited to what is necessary for the stated purposes.

If you have questions about data we collect or wish to request access to, correction of, or deletion of your personal data, contact us at privacy@ciq.com. We will respond within 30 days. Note that some data may be retained where required for license verification, security monitoring, or legal obligations. Upon request, we will provide information about data collected and may offer alternative compliance verification methods where technically feasible.

4. Third-Party Software Notice and Terms

a. The Software distribution may include Third-Party Software provided under separate license agreements. Customer must comply with all applicable third-party license terms.

b. Third-Party Software included in the distribution will include its own applicable license terms in accordance with standard Linux packaging practices.

c. Ctrl IQ has no obligation to provide support, updates, bug fixes, security patches, or vulnerability remediation for Third-Party Software. Ctrl IQ's support commitments exclude issues caused by Third-Party Software.

d. Usage information (limited to non-personal, aggregate data) may be reported to third-party licensors only as required under separate agreement between Ctrl IQ and such third party.

5. License Grant

a. Subject to the terms and conditions of this Agreement and conditional on payment of all required fees, and to the extent that the Software provided to you is not under an open source license, Ctrl IQ hereby grants to Customer a non-exclusive, non-transferable, limited license (without the right to sublicense) to: (a) install the Software and to use the Software solely for Customer's internal business purposes in object code form only and (b) to copy and use the documentation, manuals and user guides provided by Ctrl IQ in connection with the Software (the "Documentation") in connection with Customer's use of the Software. This license grant

specifically excludes any Third-Party Software, which is licensed solely under its respective license terms.

b. Delivery; Implementation. One copy of the Software in object code will be provided to Customer. The Software shall be deemed accepted upon delivery. Customer is solely responsible for implementation of the Software.

c. Restrictions. The license granted in this Section 5 is conditioned upon Customer's and its Authorized Users' compliance with this Agreement. To the extent that the Software provided to you is not under an open source license, Customer shall not and shall ensure its Authorized Users do not: (i) permit any third party to use or access the Software (except for the Authorized Users as permitted herein); (ii) share access to the Software (including log in information or notifications) with anyone who is not intended to be an Authorized User; (iii) provide, license, sublicense, sell, resell, rent, lease, share, lend, or otherwise transfer or make available the Software to any third parties, except as expressly permitted by Ctrl IQ in writing; (iv) modify, copy or create derivative works based on any content accessed through the Software; (v) disassemble, reverse engineer, decompile or otherwise seek access to the source code of the Software; (vi) access the Software in order to build a competitive product or services; (vii) remove, delete, alter, or obscure any copyright, trademark, patent, or other notice of intellectual property or documentation, including any copy thereof; (viii) transmit unlawful, infringing or harmful data or code to or from the Software; or (ix) otherwise use the Software except as expressly permitted hereunder.

d. Cloud and Container Deployments. Customer may deploy the Software in virtualized, containerized, or cloud environments, provided that the total number of deployments does not exceed the number of Units licensed.

e. Reporting. At Ctrl IQ's written request, Customer will deliver to Ctrl IQ within thirty (30) days a written report detailing the number of Units on which the Software is installed, the number of Authorized Users, and deployment locations. Customer shall ensure the accuracy of such reports. Failure to provide requested reports or providing materially inaccurate reports shall constitute a material breach of this Agreement.

6. Ownership

a. As between Ctrl IQ and Customer, Ctrl IQ or its licensors retain all rights, title, and interest (including all intellectual property rights and other rights) in and to the Software and the Documentation, including any modifications or updates thereto, and any Feedback submitted by Customer in accordance with Section 6(b). Customer does not acquire any other rights, express or implied, in the Software and the Documentation other than those rights expressly granted under this Agreement. Customer acknowledges that the Software and the Documentation embody Ctrl IQ's Confidential Information and that they are protected by copyright and other intellectual property laws.

b. Feedback. If Customer or its Authorized Users elect to provide Ctrl IQ with any feedback, comments, or suggestions for improvements of any kind related to the Software or the

Documentation ("Feedback"), the Feedback will be the sole and exclusive property of Ctrl IQ. Customer hereby assigns all rights in and to the Feedback to Ctrl IQ and agrees that Ctrl IQ will have the right to use and disclose such Feedback in any manner and for any purpose, without remuneration, compensation, or attribution to Customer.

c. **Open Source Disclaimer.** The Software may include components licensed under open source licenses ("Open Source Components"). Open Source Components are governed solely by their respective licenses, which prevail in the event of any conflict with this Agreement. Ctrl IQ makes no claim to ownership or control of Open Source Components beyond the rights granted by their respective licenses. Third-Party Software distributed with the Software is governed by its own separate license terms and is not covered by this Agreement.

7. Confidentiality

a. "Confidential Information" shall mean any information in whatever form, and however delivered or communicated by a Party (the "Disclosing Party") to the other Party (the "Receiving Party"), including, without limitation, all software code, documentation, product plans, trade secrets, business plans, customer lists, know-how, and all other information of whatever nature related to or incorporated into the business of the Disclosing Party or its affiliates and which is reasonably understood to be of a confidential nature. Confidential Information includes information of third parties that the Disclosing Party has agreed to keep confidential. For clarity, all information, documentation and specifications regarding the Software shall be Ctrl IQ's Confidential Information; provided, that the foregoing will not apply to any portion of the Software that is licensed under an open source license. Confidential Information of a Party shall not include information or material that (i) is rightfully known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (ii) is released by the Disclosing Party to the Receiving Party without restriction; (iii) is in the public domain through no fault of the Receiving Party; (iv) lawfully obtained by the Receiving Party from a third party who has no confidentiality obligations to the Disclosing Party; or (v) is independently developed by the Receiving Party without any reference or use of the Disclosing Party's Confidential Information. Additionally, a Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so by legal process, provided, the Disclosing Party is given reasonable notice of such law or order and an opportunity to attempt to preclude or limit such production. Nothing contained in this Section 7 shall be construed to allow a Party to reverse engineer or decompile the other Party's Confidential Information.

b. For a period of five (5) years from the receipt of any information deemed Confidential Information hereunder, each Party as the Receiving Party shall take all steps that are necessary or reasonable to safeguard the secrecy and confidentiality of, and proprietary rights to, the Confidential Information disclosed or provided by the Disclosing Party, and shall not disclose the foregoing to any third party (other than any employee, agent, director, officer, consultant, affiliate or contractor informed on a "need to know" basis and who has entered into a written agreement with confidentiality obligations at least as restrictive as the terms herein). Each Party shall be responsible for the compliance of such third parties with the restrictions set forth in this Section 7.

c. Each Party as the Receiving Party shall make no use whatsoever of any Confidential Information of the Disclosing Party except as required to fulfill its obligations under this Agreement.

d. Upon the Disclosing Party's request at any time and for any reason, the Receiving Party shall promptly destroy, render unreadable, or deliver to the Disclosing Party all materials (including all copies) in its possession which contain Confidential Information of the Disclosing Party; provided, however, that this provision does not apply to data that may be kept during the normal course of business in email or back-up systems.

8. Fees

a. **Generally.** Customer will pay all Invoices for the Software as stated in the Invoice made available via the marketplace or provided directly by Ctrl IQ or a Reseller, as applicable. Unless otherwise set forth on an Invoice, all amounts due to Ctrl IQ are payable in full within 30 days of Customer's receipt of an Invoice from Ctrl IQ, or as otherwise set forth in an Invoice (e.g., via automatic pre-paid billing). All amounts will be paid in U.S. dollars or in such other currency as specified in the applicable invoice. If any payment is made by Customer via credit card, Customer hereby agrees that its credit card information will be shared with and processed by Ctrl IQ's third-party payment processor subject to such payment processor's terms of service and privacy policy. Overdue amounts shall accrue interest at the rate of one- and one-half percent (1.5%) per month. Customer agrees to pay to Ctrl IQ all reasonable costs and expenses of collection, including reasonable attorneys' fees and court costs, incurred by Ctrl IQ to collect payments past due under this Agreement. Customer's payment obligations shall survive the termination of any Subscription Term.

b. **Renewals.** If you purchase a license to the Software with a credit or debit card, by providing your payment information and purchasing the license to the Software, you authorize Ctrl IQ and its third-party payment processor to automatically charge your credit card or other payment method on file for the renewal of your license at the applicable renewal rate, which will include applicable taxes and fees unless you cancel before the renewal date. You may cancel the automatic renewal of your license in accordance with Section 2. If you cancel, you will retain access to the Software until the end of your current license term. No further charges will be made after cancellation, but Ctrl IQ will not provide any refunds for any pre-paid license period. By entering into this Agreement, you consent to receive communications from Ctrl IQ electronically, including any notices regarding automatic renewals and recurring charges.

c. **Taxes.** The fees subject to this Agreement are exclusive of all taxes and Customer agrees to pay all federal, state, local, sales, use, value added, excise, withholding or other taxes, fees, or duties in connection with its and its use of the Software (other than taxes based on Ctrl IQ's net income). If Ctrl IQ has the legal obligation to pay directly or collect any such tax for which Customer is responsible under this section, the appropriate amount will be invoiced to and paid by Customer unless Customer provides Ctrl IQ with a valid tax exemption certificate authorized by the appropriate taxing authority. If Customer is required to deduct or withhold any taxes from any payment due to Ctrl IQ, then (i) the amount payable to Ctrl IQ shall be increased as necessary so that after making all required deductions (including deductions applicable to

additional sums payable under this sections), Ctrl IQ receives an amount equal to the amount it would have received had no deductions been made, (ii) Customer shall make such deductions, (iii) Customer shall pay the full amount deducted to the relevant government authority in accordance with applicable law and (iv) Customer shall promptly provide Ctrl IQ satisfactory evidence of such payment upon request. Customer shall provide its tax registration number(s) upon request.

9. Termination

a. **Termination.** Either Party may terminate this Agreement if the other Party (i) is in material breach of this Agreement, which breach is not cured within thirty (30) days after written notice of such breach, or (ii) files for or is adjudicated bankrupt or suffers any other analogous event.

b. **Suspension Right.** Without limiting the foregoing termination rights, Ctrl IQ reserves the right to suspend access to the Software if any payment owing by Customer is more than ten (10) days overdue.

c. **Effect of Termination.** Upon the effective date of expiration or termination of this Agreement for any reason: (i) all outstanding orders for the Software will automatically terminate; and (ii) all outstanding payment obligations of Customer become due and payable immediately. Customer shall be entitled to continue to use the Software; provided, however that no further services, updates, or upgrades will be provided by Ctrl IQ. Customer's rights to any Third-Party Software upon termination shall be governed by the applicable third-party license terms. Ctrl IQ makes no representations regarding the survivability or permissibility of continued use of Third-Party Software after termination. Customer is solely responsible for compliance with such third-party license terms. The following provisions will survive the expiration or termination of this Agreement for any reason: Sections 1, 5(c) (but only for proprietary software), 6, 7, 8, 9(c), 10, 11, 12 (but not 12(d)) and 13.

10. Warranties

a. **Mutual Warranties.** Each Party hereby represents and warrants that: (i) it has all requisite power and authority to execute this Agreement and to perform its obligations hereunder; (ii) the execution, delivery, and performance of this Agreement shall not conflict with its charter or bylaws, or any agreement, order, or judgment by which it is bound and (iii) it has obtained all necessary permits and consents for the performance of its obligations hereunder.

b. **Ctrl IQ's Warranties.** Ctrl IQ warrants that any Professional Services will be performed in a professional and workmanlike manner. Customer's sole and exclusive remedy for a breach of this warranty will be Ctrl IQ's re-performance of any deficient Professional Services.

c. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 10(A), THE SOFTWARE IS PROVIDED BY CTRL IQ AND ITS LICENSORS "AS IS" WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CTRL IQ HEREBY DISCLAIMS ALL OTHER

REPRESENTATIONS, WARRANTIES AND CONDITIONS, CONCERNING THE SOFTWARE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR SKILL AND CARE AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, USAGE OR TRADE. CTRL IQ FURTHER DISCLAIMS ANY WARRANTY THAT THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS, WILL OPERATE IN ALL THE COMBINATIONS WHICH MAY BE SELECTED FOR USE BY CUSTOMER OR THAT ALL ERRORS WILL BE CORRECTED OR REPAIRED. CTRL IQ MAKES NO WARRANTIES REGARDING ANY THIRD-PARTY SOFTWARE.

11. Limitation of Liability

a. **GENERAL LIMITATION OF LIABILITY.** EXCEPT AS SET FORTH IN SECTION 11(B), IN NO EVENT SHALL CTRL IQ'S AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT EXCEED LESSER OF (I) THE TOTAL AMOUNT PAID BY CUSTOMER TO CTRL IQ OR A RESELLER, AS APPLICABLE, FOR THE SOFTWARE IN THE TWELVE MONTHS PRECEDING THE DATE OF THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND (II) \$50,000. EXCEPT AS SET FORTH IN SECTION 11(B), CTRL IQ SHALL HAVE NO LIABILITY WHATSOEVER WITH RESPECT TO ANY SOFTWARE LICENSED UNDER AN OPEN SOURCE LICENSE OR ANY THIRD PARTY SOFTWARE. IN NO EVENT SHALL CTRL IQ OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, GOODWILL OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THE SOFTWARE EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

b. **RLC INDEMNIFICATION.** CTRL IQ'S AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT FOR MATTERS ARISING UNDER SECTION 12(D) IS LIMITED AS SET FORTH IN THIS SECTION 11(B). IF CUSTOMER HAS PAID CTRL IQ \$25,000 OR LESS FOR CUSTOMER'S RLC SUBSCRIPTION IN THE TWELVE MONTHS PRECEDING THE DATE OF THE ACT OR OMISSION GIVING RISE TO THE CLAIM, THEN CTRL IQ'S AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT WILL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO CTRL IQ OR A RESELLER, AS APPLICABLE, FOR THE RLC SUBSCRIPTION IN THE TWELVE MONTHS PRECEDING THE DATE OF THE ACT OR OMISSION GIVING RISE TO THE CLAIM. IF CUSTOMER HAS PAID CTRL IQ MORE THAN \$25,000 FOR CUSTOMER'S RLC SUBSCRIPTION IN THE TWELVE MONTHS PRECEDING THE DATE OF THE ACT OR OMISSION GIVING RISE TO THE CLAIM, THEN CTRL IQ'S AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT WILL NOT EXCEED THE LESSER OF (I) TWO TIMES (2X) THE TOTAL AMOUNT PAID BY CUSTOMER TO CTRL IQ OR A RESELLER, AS APPLICABLE, FOR CUSTOMER'S RLC SUBSCRIPTION IN THE

TWELVE MONTHS PRECEDING THE DATE OF THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND (II) \$1,000,000.

12. Indemnification

a. **By Customer.** Customer shall, at its sole expense, indemnify, defend and hold Ctrl IQ and its officers, directors, employees and agents harmless from and against any and all liabilities, losses, damages, claims and expenses (including reasonable attorney's fees) (collectively "Losses"), resulting from any third-party claim arising out of or relating to Customer's use of the Software, including without limitation, any and all Losses resulting from (a) Customer's failure to comply with applicable law in using the Software, or (b) Customer's breach of the terms and conditions of this Agreement; provided, however that Customer shall not be liable for any claim subject to indemnification by Ctrl IQ under Section 12(b) or Section 12(d) below.

b. **By Ctrl IQ.** Ctrl IQ shall, at its sole expense, indemnify, defend and hold Customer and its officers, directors, employees and agents harmless from and against any and all Losses resulting from any third-party claim arising out of an allegation that the proprietary Software owned by Ctrl IQ infringes any intellectual property right of such third party; provided, however that Ctrl IQ shall not have any obligation regarding claims that arise from or relate to (i) except as set forth in Section 12(d), any Software licensed under an open source license or any Third Party Software, (ii) Customer's use of the Software other than as contemplated by this Agreement, (iii) any modifications made to the Software by any entity other than Ctrl IQ or its authorized representative; (iv) any combination of the Software with services or technologies not provided by Ctrl IQ, (v) use of any version other than the latest commercially available version of the Software made available to Customer or (vi) Customer's use of the Software after Ctrl IQ has terminated this Agreement or such portion of the Software in accordance with this Section 12(b). If in Ctrl IQ's opinion, the Software is likely to be infringing, Ctrl IQ may in its discretion (x) obtain a license to enable Customer to continue to access the potentially infringing portion of the Software, (y) modify the Software to avoid the potential infringement, or (z) if the foregoing cannot be achieved after using commercially reasonable efforts, terminate the Agreement or access to the infringing portion of the Software. CTRL IQ'S OBLIGATIONS IN THIS SECTION 12(B) SHALL BE ITS SOLE AND EXCLUSIVE LIABILITY TO CUSTOMER, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO ANY CLAIM OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS INVOLVING THE SOFTWARE.

c. A Party seeking indemnification under Section 12(a) or 12(b) will provide the indemnifying Party with prompt written notice of the relevant claim (provided that the failure to provide prompt notice will only relieve the indemnifying Party of its obligations to the extent it is materially prejudiced by such failure) and permit the indemnifying Party to control the defense, settlement or compromise of such claim. The indemnified Party may employ counsel at its own expense to assist it with respect to such claim; provided, however, that if such counsel is necessary because the indemnifying Party does not assume control, the indemnifying Party will be responsible for the expense of such counsel. The Party not controlling such defense may participate therein at its own expense. The Party controlling such defense shall keep the other

Party advised of the status of such claim and the defense thereof. Neither Party shall have authority to settle any claim on behalf of the other.

d. Rocky Linux from Ctrl IQ. During the term a license to RLC is in place between the Customer and Ctrl IQ, and provided Customer is an account in good standing, Ctrl IQ agrees to indemnify and hold harmless (but not defend) Customer for any Losses resulting from a final judgment by a United States court of competent jurisdiction or an arbitrator located in the United States and applying the laws of the United States, that RLC is both: (i) not covered by the applicable open-source license; and (ii) infringes or misappropriates the third party's intellectual property rights. This right to indemnification only applies to the RLC components in the original image made available by Ctrl IQ in a Ctrl IQ hosted repository and updates that are made available by Ctrl IQ in a Ctrl IQ hosted repository. The right to indemnification does not apply to components of RLC derivatives or variants which are not part of the Rocky Linux Operating System. To be eligible for this indemnification: (1) Customer must have obtained RLC from a Ctrl IQ hosted repository (e.g. Mountain) or a Ctrl IQ listing in a cloud marketplace (Azure, AWS, GCP, OCI); (2) Customer must maintain at least the same level of license to RLC as the Customer had in place at the time a claim is brought; (3) Customer must not already be in litigation with, or have received notice of alleged infringement from, a party against whom indemnification is sought when Customer purchased the license to RLC from Ctrl IQ; (4) indemnification will not cover counter-claims brought against Customer in response to litigation initiated by Customer; and (5) indemnification will not cover punitive damages for willful or intentional acts of Customer. Ctrl IQ shall not have any obligation regarding claims that arise from or relate to (A) Customer's use of RLC other than as contemplated by this Agreement; (B) any modifications made to RLC by any entity other than Ctrl IQ or its authorized representative; (C) any combination of RLC with services or technologies not provided by Ctrl IQ; (D) use of any version other than the latest commercially available version of RLC made available to Customer or (E) Customer's use of RLC after termination of the license for RLC. CTRL IQ'S OBLIGATIONS IN THIS SECTION 12(D) SHALL BE ITS SOLE AND EXCLUSIVE LIABILITY TO CUSTOMER, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO THE FOREGOING.

13. General

a. Relationship of the Parties. Each Party agrees that its relationship with the other Party is that of an independent contractor and that nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. Neither Party shall be responsible to the other Party and neither Party has the authority to act for, bind or incur any debts or liabilities on behalf of the other Party.

b. Assignment. Customer may not assign this Agreement, directly or indirectly, by operation of law, change of control or otherwise, without the prior written consent of Ctrl IQ. Ctrl IQ may freely assign this Agreement. Any purported assignment in violation of this Section 13(b) shall be null and void from the beginning. Subject to the foregoing, this Agreement will bind and inure to the benefit of any successors and permitted assigns.

c. **Notices.** All notices required or permitted under this Agreement shall be deemed duly given (i) when delivered by hand or confirmed facsimile or email transmission; (ii) one day after delivery by overnight delivery, or (iii) three days after being mailed by certified or registered mail, return receipt requested, with postage prepaid. In each case, notice must be sent, in the case of Ctrl IQ to the address set forth in the preamble of this Agreement. Customer is responsible for updating its contact information with Ctrl IQ, including providing Ctrl IQ with an up-to-date e-mail address for the provision of notice under the Agreement. In the event that the latest e-mail address provided to Ctrl IQ by Customer is not valid, or for any reason is not capable of delivering any notice required by the Agreement, Customer acknowledges and agrees that Ctrl IQ's dispatch of an e-mail to such address will nonetheless constitute effective notice. Either Party may update their email or address for notice by furnish such information to the other Party in writing in accordance with this Section 13(c).

d. **Governing Law.** This Agreement shall be governed by the laws of the State of Delaware, without regard to any conflicts of laws principles. The parties agree that the United Nations Convention for the International Sale of Goods does not apply to this Agreement.

e. **Jurisdiction.** All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of the state or federal courts of competent jurisdiction located in Los Angeles, California, or such other jurisdiction as mutually agreed in writing by the Parties, and each Party irrevocably consents to such personal jurisdiction and waives all objections to this venue. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

f. **Entire Agreement, Amendment and Modification.** This Agreement supersedes all other communications, negotiations and prior oral or written statements regarding the subject matter of these terms and conditions. This Agreement may not be altered except by a written instrument signed by authorized legal representatives of both Parties. Any waiver of the provisions of this Agreement or of a Party's rights or remedies under this Agreement must be in writing to be effective.

g. **Force Majeure.** Neither Party will be liable or deemed to be in default for any delay or failure in performance under this Agreement (except for payment obligations) resulting, directly or indirectly, from acts of God, civil or military authority, acts of the public enemy, war, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, the elements, pandemics, epidemics, strikes, labor disputes or any causes beyond its reasonable control; provided, that the Party failing to perform in any such event will promptly resume or remedy, as the case may be, the performance of its obligations hereunder as soon as practicable.

h. **Injunctive Relief.** Customer acknowledges that any breach or threatened breach of this Agreement would cause irreparable injury to Ctrl IQ and that monetary damages in such event would be inadequate compensation. Customer agrees that Ctrl IQ will be entitled in addition to monetary relief as may be recoverable by law, to seek temporary, preliminary, and/or permanent

injunctive relief as may be necessary to restrain Customer from further breach, without posting bond.

i. **Export Compliance.** Each Party shall comply with all United States export controls and sanctions laws and regulations governing the export or re-export of the Software, including without limitation the Export Control Reform Act, 50 U.S.C. 4801-4852, the Export Administration Regulations, 15 CFR § 730, et seq., the International Traffic in Arms Regulations, 22 CFR §§ 120-130, and any regulations administered by the Department of the Treasury's Office of Foreign Assets Control ("OFAC") (collectively, "U.S. trade law"). Each Party shall also comply with all applicable export control and sanctions laws and regulations of other relevant jurisdictions, including but not limited to the European Union. Neither Party has, and will not, export, re-export, release, transfer or sell the Software: (i) in violation of U.S. trade law; (ii) to countries or regions subject to comprehensive U.S. embargoes (including but not limited to Cuba, Iran, Democratic Republic of Korea (aka North Korea), Syria, Russia, Belarus, Venezuela, or the non-government controlled regions of Ukraine, including Donetsk, Luhansk and the Crimea Regions (collectively, "Embargoed Countries")); or (iii) to any person or entity that is located in, under the control of, or a national or resident of an Embargoed Country or any individual or entity listed on any government restricted or sanctioned party lists from an applicable jurisdiction, including but not limited to OFAC's Specially Designated Nationals and Blocked Persons List, the U.S. Department of Commerce's Bureau of Industry and Security's Entity List or Denied Persons List, or the U.S. Department of State's Arms Export Control Act's Debarred Parties List.

j. **Language.** This Agreement is written in English. Any translation is for convenience only, and the English version shall prevail.

k. **Data Processing.** Customer acknowledges that support data and telemetry may be processed in the United States.