

TurnKey Linux Customer Agreement

AWS Docker-style Containers/Container Stacks

This TurnKey Linux Customer Agreement (this "Agreement") contains the terms and conditions that govern your access to and use of the Open Source Software Stacks made available by TurnKey Linux Software, Inc. on the Amazon Marketplace as an Docker-style Container and/or Container Stack(s) (hereafter referred to as "Container(s)/Container Stack(s)") as well as the terms and conditions of any support services that you purchase for any of the Containers/Container Stacks and is a legal agreement between TurnKey Linux Software, Inc. ("TurnKey Linux", "we", "us" or "our") and you or the entity you represent ("you"). This Agreement takes effect when you click an "I Accept" button or check box presented with these terms or, if earlier, when you download or use any of the TurnKey Linux Container/Container Stacks (the "Effective Date"). If you are entering into this Agreement for an entity, such as the company you work for, you represent to us that you have legal authority to bind that entity.

1.

Containers/Container Stacks. The Container(s)/Container Stack(s) are provided "as-is" with no warranty from TurnKey Linux. You acknowledge that TurnKey Linux is under no obligation to provide support for any portion of the Container/Container Stack for which you have not purchased support.

2.

Bundled Support. TurnKey Linux will provide support services and as provided in this Agreement (the "Services") to active users of the specific Containers/Container Stacks that AWS reports to TurnKey Linux you have purchased ("Purchased Containers/Container Stacks") for the period AWS reports you have purchased such support. Active users include customers who have purchased subscriptions on an hourly basis and have at least one instance of a Purchased Container/Container Stack running at the time of a support request. TurnKey may also at its discretion define active users more expansively to include customers who do not have any running instances at the time of a support request.

In order to provide Services TurnKey Linux may implement software within Purchased Containers/Container Stacks that sends encrypted information identifying the AWS Container(s)/Container Stack(s) including IDs and the product code back to TurnKey Linux's servers. This information will be correlated with the information provided by customers who register for support to identify the specific versions of Purchased Containers/Container Stacks that are associated with a customer account. Support for Purchased Containers/Container Stacks will cover only Amazon instances on which the stack is deployed through the Amazon Marketplace. It will not cover support of the AWS infrastructure or support for the Purchased Containers/Container Stacks running on other infrastructure.

TurnKey Linux will provide at least "Cloud Bronze" level support for

Purchased Containers/Container Stacks, as defined on the TurnKey Hub site through which Services are provided. To register for Services customers will need to sign up for a free TurnKey Hub account at <https://hub.turnkeylinux.org/> if they don't already have one and provide TurnKey Linux with their Amazon Account ID so their eligibility for support can be determined. After registering for Services support incidents can be submitted through the TurnKey Hub or via email to support@turnkeylinux.org <<mailto:support@turnkeylinux.org>>. Each single unique defect or question about a Purchased Stack will be counted as an incident. TurnKey Linux may change such terms from time to time. Any changes made during a calendar month will be applicable beginning on the first day of the next calendar month.

3.

Limitations on Support. TurnKey Linux will have no obligation to provide technical support or may cease providing the Services in the case of or with respect to any incident that is in whole or in part due to, caused by, or resulting from any of the following: (i) a breach by you of this Agreement; (ii) the operational characteristics of the AWS provided hardware, instances, or infrastructure; (iii) any third party products, software, hardware, equipment, content, data or information, and any modifications, improvements, updates, new versions or new releases thereto or thereof, not provided by TurnKey Linux; (v) any Container(s)/Container Stack(s) other than the most current release thereof made available by TurnKey Linux through the Amazon Marketplace; (vi) use of any Container(s)/Container Stack(s) after TurnKey Linux has notified you to cease use thereof under this Agreement; or (vii) your negligence, abuse, misapplication, or misuse of the Container(s)/Container Stack(s) or the Services. TurnKey Linux will have no liability for any changes required by your hardware or software configuration which may be necessary to use any Container(s)/Container Stack(s) due to a workaround, error correction, or maintenance release.

4.

Fees, Term, and Termination. You will be billed by Amazon under the terms of the AWS Customer Agreement. The term of this Agreement will commence on the Effective Date and will remain in effect until terminated by you or Amazon as per the AWS Customer Agreement or by TurnKey Linux. The AWS Customer Agreement is located at <http://aws.amazon.com/agreement/>.

5.

Ownership and License.

5.1. Your Technology.

Any information, data, content, software, methodologies, methods, techniques, concepts, systems, procedures, know-how, or inventions ("Technology") of yours that were acquired, developed or created by, or licensed to you prior to the Effective Date or independent from this Agreement ("Your Technology"), and all intellectual property rights therein and relating thereto

throughout the world, including, without limitation, all copyrights, trademarks, service marks, trade secrets, patents, moral rights, contract rights and any and all other legal rights protecting intangible proprietary information (collectively, "IPR"), are and will remain your exclusive property.

During the term of this Agreement, you may choose to provide TurnKey Linux with access to Your Technology to facilitate TurnKey Linux in providing the Services, in which case you grant to TurnKey Linux all rights and licenses in and to Your Technology as may be necessary for TurnKey Linux to complete its obligations under this Agreement. It should be noted that TurnKey Linux does not have access to Your Technology deployed on AWS unless you choose to give TurnKey Linux access as part of providing the Services.

5.2. Container(s)/Container Stack(s) License.

The Container(s)/Container Stack(s) (including any Purchased Stacks) are comprised of open source software, which is subject to the terms of the open source software license(s) accompanying or otherwise applicable to that open source software. Any other code created and supplied directly by TurnKey Linux is governed by the GPL3: <https://www.gnu.org/copyleft/gpl.html>. The terms of the open source software licenses apply to the open source software independent of the terms of the GPL3 License or this agreement. Nothing in this agreement limits your rights under or grants rights to you that supersede the terms of any applicable open source software license. To the extent the terms of the licenses applicable to Container(s)/Container Stack(s) require TurnKey Linux to make an offer to provide source code in for the Container(s)/Container Stack(s), and TurnKey Linux has not already made such source code available to you, such offer is hereby made. Any request to fulfill such offer should be directed only to: support@turnkeylinux.org <<mailto:support@turnkeylinux.org>>

5.3. Open Source Acknowledgement.

You acknowledge that your own distribution or deployment of instances containing or linking to the Container(s)/Container Stack(s) or any other open source software may trigger open source license conditions and you are responsible for complying with them.

5.4. TurnKey Linux Technology.

All deliverables and any technology or other idea, conception, invention, reduction to practice, discovery or development provided or made by or on behalf of TurnKey Linux, and any modification, enhancement, improvement, or derivative work thereto or thereof (collectively, "TurnKey Linux Technology"), and all IPR therein and thereto, are and will remain the exclusive property of TurnKey Linux.

5.5. License.

Subject to the terms and conditions of this Agreement, including payment of all applicable fees when due, TurnKey Linux grants to you a non-exclusive, non-transferable, worldwide license to use for your own internal business purposes any deliverables provided to you by TurnKey Linux under this Agreement. To the extent any deliverable hereunder is a derivative work, modification, patch, or script of or directly relating to an open source software project (each an "Open Source Deliverable"), TurnKey Linux will license its rights in such Open Source Deliverable under the same open source software license as the open source project to which it relates.

6.

Your Comments and Feedback. In the course of TurnKey Linux providing you with technical support, you may provide comments, suggestions, and other feedback regarding the Container(s)/Container Stack(s), the support services, or related topics to TurnKey Linux. You agree that TurnKey Linux will be free to use any such feedback you provide for any purpose, including without limitation implementing changes based on your feedback to the Container(s)/Container Stack(s), support, or other offerings without attribution or compensation to you.

7.

Warranties.

7.1. General.

Each party represents and warrants to the other party that: the performance of such party's obligations hereunder do not and will not violate any law, rule or regulation applicable to such party.

7.2. TurnKey Linux.

TurnKey Linux will perform all Services as stated under this Agreement. If TurnKey Linux fails to comply with the previous sentence, TurnKey Linux will, at its sole discretion and as your sole remedy and TurnKey Linux's sole obligation for any such failure: (a) re-perform the Services in a manner that resolves the alleged failure; or (b) refund any Fees paid by you attributable to the Services that are the subject of the failure.

8.

Disclaimer. THE WARRANTIES SET FORTH IN SECTION 7 ARE THE SOLE AND EXCLUSIVE WARRANTIES MADE BY TURNKEY LINUX UNDER THIS AGREEMENT AND TURNKEY LINUX SPECIFICALLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE SERVICES, DELIVERABLES AND ANY OTHER SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY OR MERCHANTABILITY.

9.

Limitation of Liability. TURNKEY LINUX WILL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE), INCLUDING, BY WAY OF EXAMPLE, LOST REVENUE, LOST PROFITS, BUSINESS INTERRUPTION, AND INJURY TO REPUTATION, EVEN IF TURNKEY LINUX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL CUMULATIVE LIABILITY OF TURNKEY LINUX RELATING TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE TOTAL FEES PAID TO AMAZON BY YOU FOR SUPPORT PROVIDED BY TURNKEY LINUX DURING THE 3 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT(S) GIVING RISE TO SUCH LIABILITY.

10.

Confidential Information.

10.1. Confidential Information.

For purposes of this Agreement, "Confidential Information" means any data or information regarding the business, finances, services or technology of either party provided to or otherwise obtained by the other party, including, without limitation, technical, marketing, financial, pricing, employee, and planning information, and any other data or information received or otherwise obtained under this Agreement that a reasonable person should have known, under the circumstances, was confidential or proprietary.

10.2. Protection.

Each party (the "Receiving Party") may from time to time receive or otherwise obtain Confidential Information from the other party (the "Disclosing Party"). The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information in the same manner as the Receiving Party protects its own confidential information of a similar nature and with no less than reasonable care.

10.3. Exceptions.

The Receiving Party's obligations with respect to any Confidential Information of the Disclosing Party will terminate if such information: (a) was already lawfully known to the Receiving Party as of the Effective Date; (b) is disclosed to the Receiving Party after the Effective Date by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party becomes, generally available to the public; or (d) is independently developed by the Receiving Party without access to, use of, or reference to, the Disclosing Party's

Confidential Information. In addition, the Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (ii) required by law or by the order of a court of similar judicial, regulatory or administrative body, provided that the Receiving Party notifies the Disclosing Party in advance of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

11.

General

11.1. Export.

You will comply with all applicable export and import laws and regulations in your use of the Container(s)/Container Stack(s). You represent that you are not barred from receiving services under U.S. laws or other applicable jurisdiction, including without limitations, the Denied Persons List and the Entity List, and other lists issued by the U.S. Department of Commerce, Bureau of Industry and Security. You represent that you are not located in, under the control of, or a national or resident of any country to which the United States has embargoed goods.

11.2. Assignment.

This agreement, or any of your rights and obligations under this agreement, cannot be assigned or otherwise transferred in whole or in part, and any such attempted assignment or transfer by you in violation of the foregoing will be null and void.

11.3. Choice of law.

This agreement will be governed by the laws of the State of Israel, without regard to conflicts of law principles. The courts located in Israel (and any other courts having jurisdiction over matters arising in Israel) will have exclusive jurisdiction over any disputes arising under this agreement and the parties hereby irrevocably consent to the personal jurisdiction of such courts. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this agreement.

11.4. Relationship of parties.

This agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between you and TurnKey Linux. There are no third-party beneficiaries to this agreement.

11.5. Waiver.

All waivers under this agreement must be in writing. Any waiver or failure to enforce any provision of this agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

11.6. Survival.

Sections 4 (Fees, Term, and Termination), 5 (Ownership; License), 6 (Your Comments and Feedback), 8 (Disclaimer), 9 (Limitation of Liability), 10 (Confidential Information), and 11 (General) will survive termination or expiration of this agreement.

11.7. Severability.

If any provision of this agreement is held to be unenforceable, that provision will be modified so as to be enforceable, or if such modification is not possible, that provision will be removed and the remaining provisions will remain in full force.