

Software License Agreement for AWS OpsWorks

Puppet Enterprise™

PLEASE READ THIS SOFTWARE LICENSE AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE ACCESSING, DOWNLOADING OR OTHERWISE USING PUPPET ENTERPRISE (“SOFTWARE”). BY CLICKING THE “I ACCEPT” BUTTON OR BY DOWNLOADING OR OTHERWISE USING THE SOFTWARE, YOU ACCEPT THIS AGREEMENT AND ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY ITS TERMS. IF YOU ARE AN INDIVIDUAL ACTING ON BEHALF OF AN ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, YOU ARE SOLELY RESPONSIBLE FOR YOUR USE OF THE SOFTWARE. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN YOU ARE NOT PERMITTED TO ACCESS, DOWNLOAD OR OTHERWISE USE THE SOFTWARE.

“AWS” means Amazon Web Services, Inc.

“AWS OpsWorks” means the configuration management service operated by AWS that is currently named “AWS OpsWorks” as such service may be updated from time to time.

“AWS Cloud” means the online cloud infrastructure services offered by AWS.

“Customer” refers to you individually or the entity on whose behalf you are entering into this Agreement.

“Puppet” means Puppet, Inc.

“Subscription Period” means the time period during which Customer is paying for the license to the Software via AWS OpsWorks.

1. **ORDERS.** Customer may purchase access to and use of the Software from time-to-time from AWS, in accordance with the terms and conditions set by AWS and this Agreement. This Agreement supersedes any conflicting provisions on an order, and Puppet rejects any additional provisions that it has not expressly agreed to in writing. The Software is deemed accepted upon use.
2. **LICENSE.** Subject to Customer’s compliance with this Agreement and the AWS OpsWorks terms and conditions, Puppet grants to Customer a worldwide, limited, non-transferrable, revocable license to access and use the Software during the Subscription Period for the purpose of managing Customer’s information technology infrastructure in the AWS Cloud.
3. **SOURCE CODE.** The source code for the Software is available through <https://puppet.com/legal>. Portions of the source code are subject to the provisions of an “open source” license (the “Open Source Components”). The applicable license and its associated components are listed at <https://puppet.com/puppet-enterprise-components-licenses/>.
4. **THIRD PARTY SOFTWARE.** The Software includes components that included under license from third parties (the “Third Party Software”). The components and their applicable third-party license terms are listed at <https://puppet.com/puppet-enterprise-components-licenses/>. In addition, the software provided by AWS for the AWS Cloud is Third Party Software.
5. **RESTRICTIONS.** The Software is licensed, not sold. Except as stated otherwise in this Agreement, Customer may not use the Software other than for Customer’s internal business purposes, and not for the purposes of any third party (except to the extent the Software is used internally by Customer to provide services to its customers). Other than as granted in Section 2, Puppet and its licensors retain all right, title and interest in and to the Software, including all intellectual property rights, registered or unregistered, and wherever in the world those rights may exist (collectively, the “Puppet Rights”). The Puppet Rights include graphics, user and visual interfaces, design, structure, selection, coordination, expression, "look and feel", arrangement, trademark, logo

and other distinctive brand features of the Software (collectively, the “Puppet Marks”). This Agreement does not permit Customer to distribute any product or service using the Puppet Marks, including in connection with any Open Source Components. Puppet shall retain title to all copies of the Software provided to Customer or made by Customer. There are no implied rights or licenses in this Agreement. All rights are expressly reserved by Puppet.

6. **FEES AND PAYMENT.** Customer will pay the fee set forth in AWS OpsWorks for its license subscription to the Software (“Fee”), in accordance with the terms and conditions required by AWS. The license granted herein is subject to Customer making all payments due to AWS and shall automatically terminate if Customer fails to make any payments when due.
7. **SUPPORT; CHANGES.**
 - 7.1 **Support and Maintenance.** AWS shall be responsible for providing support and maintenance to Customer.
 - 7.2 **Modules and Customer Changes.** Puppet makes available certain modules (“Modules”) that may be used in connection with the Software, either bundled with the Software (including in an update or upgrade later provided) or through its web site forge.puppet.com (“Puppet Forge”). Any Modules bundled with the Software are licensed under this Agreement, and any Modules obtained through the Puppet Forge are subject to their accompanying license. Except for Modules that are bundled with the Software or where otherwise indicated by Puppet on the Puppet Forge, Puppet is not liable to support any Module, nor are such Modules covered by the warranty and indemnity terms of this Agreement. Furthermore, Puppet is not responsible to support, and is not liable under this Agreement in any way (including warranty and indemnity) for, any changes made by Customer or AWS to the Software.
8. **WARRANTY; DISCLAIMER**
 - 8.1 **General Warranties.** Puppet represents and warrants that it has sufficient ownership or authority to grant to Customer the license stated in Section 2. Each party represents and warrants that: (a) it has the full power and authority to enter into this Agreement and to carry out its obligations under this Agreement; and (b) it has complied, and will in the future comply, with all applicable laws in connection with the execution, delivery and performance of this Agreement.
 - 8.2 **Product Warranty.** Puppet warrants to the Customer that the Software will perform in all material respects as specified in its accompanying documentation under normal use for a period of thirty (30) calendar days from initial access. Customer’s exclusive remedy for a breach of this limited warranty is to return any allegedly defective Software and Puppet will replace it. This warranty applies to Third Party Software bundled with the Software by Puppet only to the extent its failure to operate causes the Software to fail to conform to this warranty.
 - 8.3 **Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8, PUPPET DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS WITH RESPECT TO THE SOFTWARE, INCLUDING THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, MERCHANTABILITY AND THOSE THAT MAY ARISE FROM ANY COURSE OF DEALING OR PERFORMANCE.
9. **INDEMNIFICATION.**
 - 9.1 **Obligation.** Subject to Section 10 and the conditions and exceptions listed below, Puppet will defend Customer and Customer’s shareholders, directors, and employees (the “Defendants”) against a third party’s claim that Customer’s use of the Software (in the form delivered to Customer and as authorized in this Agreement) infringes or misappropriates the third party’s copyright or United States trade secret rights, or directly infringes a valid United States patent that issued as of the Effective Date (in each case, a “Claim”), and will further indemnify the Defendants against any damages, fees (including reasonable attorney fees), costs and expenses which are included in a final award, judgment or settlement of a Claim.
 - 9.2 **Conditions.** Puppet’s obligations in Section 9.1 are conditioned on (a) Customer notifying Puppet immediately upon receiving a Claim and providing Puppet with a written copy of the Claim, (b) Customer cooperating with Puppet in the defense or settlement of the Claim, and (c) Customer providing Puppet with all necessary authority for Puppet to defend or settle the claim. Customer may participate in the defense or settlement of the Claim at its own expense. Following notice of a Claim, or if in its discretion Puppet determines that a Claim is likely, Puppet may, at its sole option, procure for Customer the right to continue to use the Software as furnished, or replace or modify the Software to make it non-infringing.
 - 9.3 **Exceptions.** Puppet has no obligation under Section 9.1 with respect to any Claim based upon or otherwise relating to: (a) any use of the Software that is not authorized by this Agreement; (b) the combination of the Software with other products, services, equipment, software, or data not supplied by Puppet; (c) any

modification of the Software by any person other than Puppet or its authorized agents; or (d) any Third Party Software.

9.4 THIS SECTION REPRESENTS PUPPET'S ENTIRE LIABILITY TO CUSTOMER FOR INDEMNITY OF THIRD PARTY INTELLECTUAL PROPERTY CLAIMS.

10. LIMITATION OF LIABILITY. EXCEPT AS STATED BELOW, EACH PARTY'S LIABILITY TO THE OTHER UNDER THIS AGREEMENT IS LIMITED AS FOLLOWS: (A) NEITHER SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, RELIANCE, OR SPECIAL DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS, LOST DATA OR LOST SAVINGS); AND (B) NEITHER SHALL BE LIABLE TO THE OTHER FOR ANY AMOUNTS IN EXCESS OF FIVE HUNDRED DOLLARS (\$500). THESE LIMITS DO NOT APPLY TO ANY LIABILITY THAT ARISES FROM ANY CLAIM FOR THE UNLICENSED USE OF THE SOFTWARE. THESE LIMITS APPLY REGARDLESS OF THE FORM OF CLAIM (CONTRACT, TORT OR OTHERWISE) AND EVEN IF THIS SECTION 10 IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY. IN SUCH EVENT, LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.
11. EXPORT CONTROL. As required by the laws of the United States and other countries, Customer represents and warrants that Customer: (a) understands that the Software and its components may be subject to export controls under the U.S. Commerce Department's Export Administration Regulations ("EAR"); (b) is not located in a prohibited destination country under the EAR or U.S. sanctions regulations; (c) will not export, re-export, or transfer the Software to any prohibited destination or persons or entities on the U.S. Bureau of Industry and Security Denied Parties List or Entity List, or the U.S. Office of Foreign Assets Control list of Specially Designated Nationals and Blocked Persons, or any similar lists maintained by other countries, without the necessary export license(s) or authorization(s); (d) will not use or transfer the Software for use in connection with any nuclear, chemical or biological weapons, missile technology, or military end-uses where prohibited by an applicable arms embargo, unless authorized by the relevant government agency by regulation or specific license; and (e) understands that countries including the United States may restrict the import, use, or export of encryption products (which may include the Software and the components) and agrees that Customer shall be solely responsible for compliance with any such import, use, or export restrictions.
12. GOVERNMENT USERS. The Software contains "commercial computer software" as that term is described in DFAR 252.227-7014(a)(1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.11 (Technical Data) of the Federal Acquisition Regulations and its successors. If acquired by or on behalf of any agency within the Department of Defense, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors. Puppet abides by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a).
13. TERMINATION. This Agreement begins on the start of the Subscription Period and continues in force until terminated in accordance with the Customer's access to the AWS Cloud or until such point that Customer terminates its subscription; provided, however, that Puppet may terminate this Agreement if Customer is in material breach and fails to cure the breach within 10 days of written notice.. Upon termination, Customer must cease all access to and use of the Software. The following Sections survive termination: 3, 4, 5, 8, 9, 10, 11, 13 and 15.
14. ASSIGNMENT. Neither Party may assign or otherwise transfer this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, to any third party without the prior written consent of the other Party; provided, however, either Party may assign this Agreement and all of such Party's rights and obligations to any affiliate of such Party or to any third party which succeeds by operation of law or purchases or otherwise acquires all or substantially all of the assets of such Party or an affiliate of such Party (whether by way of merger, consolidation, sale of assets, or other corporate reorganization or combination) and assumes such Party's obligations hereunder. Any attempted or purported assignment, transfer or delegation without any required consent having first been obtained shall be null and void and a material breach of this Agreement. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

15. GENERAL. The laws of the State of Oregon, U.S.A., govern this Agreement (without regard to Oregon conflict of laws rules and excluding the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act). Customer agrees to exclusively resolve all disputes, claims and controversies arising from or relating to this Agreement in the state or federal courts located in Multnomah County, Oregon, and Customer irrevocably waives any objection to such exclusive jurisdiction. Customer agrees that any breach of Section 5 or other infringement or misappropriation of the Puppet Rights will result in immediate and irreparable damage to Puppet for which there is no adequate remedy at law. Customer and Puppet may only amend or modify this Agreement, or waive any right under this Agreement, in a writing that is signed by both parties and that expressly references this Agreement. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions. Headings are used in this Agreement for reference only and will not be considered when interpreting this Agreement. As used in this Agreement, "includes" (or "including") means without limitation. This Agreement constitutes the entire agreement between the parties with respect to the Software and its related support and maintenance, and supersedes all prior and contemporaneous agreements or communications.