

Novell® Linux Point of Service 9 Novell Software License Agreement

PLEASE READ THIS AGREEMENT CAREFULLY, BY INSTALLING OR OTHERWISE USING THE SOFTWARE (INCLUDING ITS COMPONENTS), YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH THESE TERMS, DO NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE AND, IF APPLICABLE, RETURN THE ENTIRE UNUSED PACKAGE TO THE RESELLER WITH YOUR RECEIPT FOR A REFUND. THE SOFTWARE MAY NOT BE SOLD, TRANSFERRED, OR FURTHER DISTRIBUTED WITHOUT PRIOR WRITTEN AUTHORIZATION FROM NOVELL.

RIGHTS AND LICENSES

This Novell Software License Agreement ("Agreement") is a legal agreement between You (an entity or a person) and Novell, Inc. ("Novell") with respect to the software product identified in the title of this Agreement, media (if any) and accompanying documentation (collectively the "Software").

The Software includes Client Software (i.e., software used at a workstation terminal and that uploads information to, and downloads information from, a server) and Server Software (i.e., software on a computer used as a server, which is used by multiple clients to share access to files, process data, run applications, remotely install client software, and serve additional functions). The Client Software is used on POS Clients (defined below). The Server Software may be used for different purposes, including a Low End Server, a High End Server, an Administration Server and a Build Server, depending on the number of POS Clients it supports, and its function.

1) DEFINITIONS:

1.1) POS Client:

A Point of Service client (POS client) is a special purpose workstation which provides transactional functions.

1.2) Low End Server:

A Low End Server is

- (i) a server which supports up to ten POS Clients in a single location without a backup server;
- (ii) a backup or failover server for a High End Server (in a dual server redundant configuration), where the Low End Server resides in standby mode and the High End Server functions as the primary server.

or

- (iii) POS Client functionality may be used on the same computer or device as a Low End Server.

1.3) High End Server:

A High End Server is

- (i) a primary server (in a dual controller configuration), where a Low End Server resides in standby mode;
- (ii) a server which supports more than ten POS Clients in a single location.
- (iii) a server that provides functionality separate from servicing POS Clients.

or

- (iv) POS Client functionality may be used on the same computer or device as a High End Server.

1.4) Administration Server:

An Administration Server is a server that creates, manages and deploys images for POS Clients. An Administration Server runs a lightweight directory service called LDAP to manage the POS Clients. An Administration Server also runs a service called rsync that enables POS Clients to pull images. An Administration Server may also be used to create/build client images if a Build Server is not available. An Administration Server may not be used as a Low End Server or a High End Server.

1.5) Build Server:

A Build Server is a server dedicated to building POS Client images, which include the operating system, drivers, tools and the application. A Build Server may not be used as a Low End Server or a High End Server.

2) LICENSE:

Your license for the Software is restricted to the usage defined below.

a) You must acquire a license for each POS Client and for each Server Software. When acquiring a license for Server Software, You must designate its intended use (e.g., as a Low End Server, a High End Server, an Administration Server or a Build Server). You may not subsequently change the use of Server Software without acquiring an appropriate license for the intended use. In addition, except as expressly permitted in this agreement, You may not use Server Software for more than one designated purpose.

b) When You have more than one server in a location, You must acquire a license for a High End Server to facilitate the dual controller configuration. The Administration Server must be installed with a High End Server. The Build Server must be installed with a High End Server. The Build Server must be connected to an Administration Server where the built images will be deployed, although the Build Server and Administration Server may be the same system. Both the Administration Server functionality and the Build Server functionality can be used with a High End Server. In order to run an Administration Server or Build Server you must have a license for a High End Server, unless the Administration Server or Build Server is implemented on an existing licensed SUSE LINUX Enterprise Server.

So long as You are in compliance with the terms and conditions of this Agreement, Novell hereby grants to You, and You hereby accept, a non-exclusive, non-transferable right to (a) install and use the Software only on that number of servers and clients for which You have purchased licenses, subject at all times to the above restrictions and requirements.

Evaluation Software. If the Software is an evaluation version or is provided to You for evaluation purposes, then Your license to use the Software is limited solely to internal evaluation purposes in accordance with the terms of the evaluation offering under which You received the Software and expires 90 days from installation (or such other period as

indicated by the Software) and the Software may cease to function. Upon expiration of the evaluation period, You must discontinue use of the Software, return to an original state any actions performed by the Software, and delete the Software entirely from Your system. The Software may contain an automatic disabling mechanism that prevents its use after a certain period of time, so You should back up Your system and take other measures to prevent any loss of files or data. Use of the Software is entirely at Your own risk.

The Software is a modular operating system. Most of the components are open source packages, developed independently, and accompanied by separate license terms. Your license rights with respect to individual components accompanied by separate license terms are defined by those terms; nothing in this Agreement shall restrict, limit, or otherwise affect any rights or obligations You may have, or conditions to which You may be subject, under such license terms.

While the license terms for a component may authorize You to distribute the component, You may not use any Novell marks (e.g., SUSE and SUSE LINUX) in distributing the component, whether or not the component contains Novell marks.

OTHER LICENSE TERMS AND RESTRICTIONS

The Software is protected by the copyright laws and treaties of the United States ("U.S.") and other countries and is subject to the terms of this Agreement. The Software is licensed to You, not sold.

The Software may be bundled with other software programs ("Bundled Programs"). Your license rights with respect to Bundled Programs accompanied by separate license terms are defined by those terms; nothing in this Agreement shall restrict, limit, or otherwise affect any rights or obligations You may have, or conditions to which You may be subject, under such license terms.

Novell reserves all rights not expressly granted to You. You may not: (1) reverse engineer, decompile, or disassemble the Software except and only to the extent it is expressly permitted by applicable law or the license terms accompanying a component of the Software; or (2) transfer the Software or Your license rights under this Agreement, in whole or in part.

RESTRICTIONS

Upgrade Protection. If You purchased upgrade protection or maintenance under a Novell program for this Software, the upgrade protection or maintenance only entitles You to upgrades of the Software as a whole and does not entitle You to upgrades of any component programs or products bundled with the Software or any individual suite products if the Software is licensed as a suite of products. You may separately purchase upgrade protection or maintenance for individual components of the Software if permitted by the applicable Novell policies.

Upgrade License. This section applies to You if the Software is an upgrade version or is provided to You as an upgrade. "Original Product" means the product from which You are upgrading. You are authorized to use the Software only if You are the sole and original, authorized user of the Original Product and You meet the following conditions: (1) You have acquired the right to use the Software solely to replace the Original Product that You acquired legally and that qualified to be upgraded with the Software under the Novell policies existing at the time You acquired the Software; (2) You installed and used the Original Product in accordance with the terms and conditions of the applicable license agreement; (3) At the time You acquired the Original Product, You acquired a completed and authentic copy of the Original Product, including all disks and manuals, and not simply a master or license disk; (4) You have not acquired the Original Product as scrap or through a second hand purchase from a dealer, distributor or another end user; (5) You will permanently discontinue use of the Original Product within sixty (60) days of installation of the Software; and (6) You will not sell or otherwise transfer possession of the Original Product.

Additive License. This section applies to You if You are acquiring the Software to add additional users or servers to a previously acquired product (referred to below as the "Base Product"). You are authorized to use the Software only if You are the sole and original, authorized user of the Base Product and You meet the following conditions: (1) You have acquired the right to use this Software solely to add additional users or servers to the Base Product that You acquired legally; (2) At the time You acquired the Base Product, You acquired a complete and authentic copy of the Base Product, including all disks and manuals, and not simply a master or license disk; and (3) You have not acquired the Base Product as scrap or through a second hand purchase from a dealer, distributor or another end user.

MAINTENANCE AND SUPPORT

Your rights with respect to updates, patches, or other materials received under a subscription to a Novell maintenance program for the Software are defined by the relevant maintenance program terms.

Novell has no obligation under this Agreement to provide maintenance or support for the Software. Depending on how You acquired the Software, You may have also acquired a maintenance subscription for the Software. For more information on Novell's current maintenance and support offerings, see <http://support.novell.com>.

OWNERSHIP RIGHTS

No title to or ownership of the Software is transferred to You. Novell and/or its licensors owns and retains all title and ownership of all intellectual property rights in the Software, including any adaptations or copies. You acquire only a license to use the Software.

LIMITED WARRANTY

For ninety (90) days from Your date of purchase, Novell warrants that (1) any media on which the Software is delivered is free from physical defects; and (2) the Software will substantially conform to the documentation accompanying the Software. If the defective items are returned to Novell or if You report the nonconformity to Novell within ninety (90) days from the date of purchase, Novell will at its sole discretion either resolve the nonconformity or refund the license fees You paid for the Software. Any misuse or unauthorized modification of the Software voids this warranty. THE FOREGOING WARRANTY IS YOUR SOLE AND EXCLUSIVE REMEDY AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. (The foregoing warranty does not apply to Software provided free of charge. SUCH SOFTWARE IS PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND.)

THE SOFTWARE IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE OR DISTRIBUTION WITH ON-LINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, COMMUNICATION, OR CONTROL SYSTEMS, DIRECT LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR OTHER USES IN WHICH FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

THE SOFTWARE IS ONLY COMPATIBLE WITH CERTAIN COMPUTERS AND OPERATING SYSTEMS. THE SOFTWARE IS NOT WARRANTED FOR NON-COMPATIBLE SYSTEMS. Call Novell or Your dealer for information about compatibility.

Non-Novell Products. The Software may include or be bundled with hardware or other software programs licensed or sold by a licensor other than Novell. NOVELL DOES NOT WARRANT NON-NOVELL PRODUCTS. ANY SUCH PRODUCTS ARE PROVIDED ON AN "AS IS" BASIS. ANY WARRANTY SERVICE FOR NON-NOVELL PRODUCTS IS PROVIDED BY THE PRODUCT LICENSOR IN ACCORDANCE WITH THE APPLICABLE LICENSOR WARRANTY.

EXCEPT AS OTHERWISE RESTRICTED BY LAW, NOVELL DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES INCLUDING ANY WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. NOVELL MAKES NO WARRANTY, REPRESENTATION OR PROMISE NOT EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY. NOVELL DOES NOT WARRANT THAT THE SOFTWARE WILL SATISFY YOUR REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED. Some jurisdictions do not allow certain disclaimers and limitations of warranties, so portions of the above limitations may not apply to You. This limited warranty gives You specific rights and You may also have other rights which vary from state to state.

LIMITATION OF LIABILITY

(a) Consequential Losses. NEITHER NOVELL NOR ANY OF ITS LICENSORS, SUBSIDIARIES, OR EMPLOYEES WILL IN ANY CASE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, TORT, ECONOMIC OR PUNITIVE DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, BUSINESS OR DATA, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.

(b) Direct Damages. IN NO EVENT WILL NOVELL'S AGGREGATE LIABILITY FOR DIRECT DAMAGES TO PROPERTY OR PERSON (WHETHER IN ONE INSTANCE OR A SERIES OF INSTANCES) EXCEED 1.25 TIMES THE AMOUNT PAID BY YOU FOR THE SOFTWARE OUT OF WHICH SUCH CLAIM AROSE [OR \$50 (U.S.) IF YOU RECEIVED THE SOFTWARE FREE OF CHARGE]. The above exclusions and limitations will not apply to claims relating to death or personal injury. In those jurisdictions that do not allow the exclusion or limitation of damages, Novell's liability shall be limited or excluded to the maximum extent allowed within those jurisdictions.

GENERAL TERMS

Term. This Agreement becomes effective on the date You legally acquire the Software and will automatically terminate if You breach any of its terms. Upon termination of this Agreement. You must destroy the original and all copies of the Software or return them to Novell and delete the Software from Your systems.

Benchmark Testing. This benchmark testing restriction applies to You if You are a software developer or licensor or if You are performing testing on the Software at the direction of or on behalf of a software developer or licensor. You may not, without Novell's prior written consent not to be unreasonably withheld, publish or disclose to any third party the results of any benchmark test of the Software. If You are a licensor of products that are functionally similar to or compete with the Software ("Similar Products"), or are acting on behalf of such a licensor, and You publish or disclose benchmark information on the Software in violation of this restriction, then notwithstanding anything to the contrary in the Similar Product's end user license agreement, and in addition to any other remedies Novell may have, Novell shall have the right to perform benchmark testing on Similar Products and to disclose and publish that benchmark information and You hereby represent that You have authority to grant such right to Novell.

Open Source. Nothing in this Agreement shall restrict, limit or otherwise affect any rights or obligations You may have, or conditions to which You may be subject, under any applicable open source licenses to any open source code contained in the Software.

Transfer. This Agreement may not be transferred or assigned without the prior written approval of Novell.

Law and Jurisdiction. This Agreement is governed by the laws of the State of Utah, U.S. Any action at law relating to this Agreement may only be brought before the courts of competent jurisdiction of the State of Utah. If, however, Your country of principal residence is a member state of the European Union or the European Free Trade Association, this

Agreement is governed by the laws of that country, and any action at law may only be brought before a court of competent jurisdiction of that country.

Entire Agreement. This Agreement and the Upgrade/Additive Agreement (if applicable) sets forth the entire understanding and agreement between You and Novell and may be amended only in a writing signed by both parties. NO LICENSOR, DISTRIBUTOR, DEALER, RETAILER, RESELLER, SALES PERSON, OR EMPLOYEE IS AUTHORIZED TO MODIFY THIS AGREEMENT OR TO MAKE ANY REPRESENTATION OR PROMIS THAT IS DIFFERENT FROM, OR IN ADDITION TO, THE TERMS OF THIS AGREEMENT.

Waiver. No waiver of any right under this Agreement will be effective unless in writing, signed by a duly authorized representative of the party to be bound. No waiver of any past or present right arising from any breach or failure to perform will be deemed to be a waiver of any future right arising under this Agreement.

Severability. If any provision in this Agreement is invalid or unenforceable, that provision will be construed, limited, modified or, if necessary, severed, to the extent necessary, to eliminate its invalidity or unenforceability, and the other provisions of this Agreement will remain unaffected.

Export Compliance. Any products or technical information provided under this Agreement may be subject to U.S. export controls and the trade laws of other countries. The parties agree to comply with all export control regulations and to obtain any required licenses or classification to export, re-export or import deliverables. The parties agree not to export or re-export to entities on the current U.S. export exclusion lists or to any embargoed or terrorist countries as specified in the U.S. export laws. The parties will not use deliverables for prohibited nuclear, missile, or chemical biological weaponry end uses. Please consult the Bureau of Industry and Security web page www.bis.doc.gov before exporting Novell products from the U.S. Please refer to www.novell.com/info/exports/ for more information on exporting Novell software. Upon request, Novell will provide You specific information regarding applicable restrictions. However, Novell assumes no responsibility for Your failure to obtain any necessary export approvals.

U.S. Government Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to the restrictions in FAR 52.227-14 (June 1987) Alternate III (June 1987), Far 52.227-19 (June (1987), or DFARS 252.227-7013 (b) (3) (Nov 1995), or applicable successor clauses. Contractor/Manufacturer is Novell, Inc., 1800 South Novell Place, Provo, Utah 84606.

Other. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.

© 1993, 2000-2005 Novell, Inc. All Rights Reserved.
(060205)

Novell is a registered trademark of Novell, Inc. in the United States and other countries.
SUSE LINUX is a trademark of SUSE LINUX Products GmbH, a Novell business.