

AWS IoT Device Tester License Agreement

THIS AWS IOT DEVICE TESTER LICENSE AGREEMENT (THIS “**AGREEMENT**”) GOVERNS YOUR USE OF AWS IOT DEVICE TESTER SOFTWARE (TOGETHER WITH ANY UPDATES AND UPGRADES TO IT, AND ACCOMPANYING DOCUMENTATION, THE “**SOFTWARE**”) AND IS AN AGREEMENT BETWEEN AMAZON WEB SERVICES, INC. (“**AWS**,” “**WE**,” “**US**,” OR “**OUR**”) AND YOU OR THE COMPANY OR ENTITY YOU REPRESENT (“**YOU**”). IF YOU DOWNLOAD, INSTALL OR USE THE SOFTWARE, YOU ACCEPT AND AGREE TO BE BOUND BY THIS AGREEMENT AND REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND YOURSELF OR THE ENTITY YOU REPRESENT TO THIS AGREEMENT.

THE SOFTWARE AND ALL INFORMATION REGARDING THE SOFTWARE ARE NOT YET GENERALLY AVAILABLE AND ARE BEING MADE AVAILABLE TO YOU ON A CONFIDENTIAL BASIS AS A BETA SERVICE. IN ADDITION TO THE TERMS AND LICENSES CONTAINED HEREIN, YOUR USE OF THE SOFTWARE IS SUBJECT TO THE BETA SERVICE PARTICIPATION TERMS LOCATED IN SECTION 1.10 OF THE AWS SERVICE TERMS LOCATED AT [HTTPS://AWS.AMAZON.COM/SERVICE-TERMS/](https://aws.amazon.com/service-terms/). WE MAY CHANGE THE SOFTWARE OR ANY ASPECT OF IT, INCLUDING THE TERMS OF THIS AGREEMENT, AT ANY TIME IN OUR SOLE DISCRETION UPON NOTICE TO YOU, INCLUDING WITHOUT LIMITATION, UPON GENERAL AVAILABILITY OF THE SOFTWARE.

1. Use of the Software. There are two versions of the Software: (i) the Software for AWS Greengrass is a test automation application that enables device manufacturers to self-test devices to confirm that such devices can run AWS Greengrass and interoperate with AWS IoT services and (ii) the Software for Amazon FreeRTOS is a test automation application that enables hardware vendors to self-test microcontroller-based devices to confirm that such devices can run Amazon FreeRTOS and interoperate with AWS IoT services. For purposes of this Agreement, the term “Software” shall refer to the version or versions of the Software that you download, install or use. We hereby grant you a personal, limited, nonexclusive, non-transferable, non-sublicenseable, revocable, royalty-free, worldwide license during the term of this Agreement to (a) download the Software; and (b) install and use the Software on computer equipment and any related devices (“**Equipment**”) owned or controlled by you and used internally by you for development and testing purposes. The Software may not be installed or used on any Equipment that is distributed to others. We may modify or discontinue (including by ceasing our distribution of) the Software at any time without notice (but AWS will endeavor to provide reasonable notice) and you are solely responsible for ensuring that the Equipment on which the Software is installed functions properly after any such modification or discontinuation. Use of the Software may incur AWS Service usage fees in the event that any such services are used in connection with the Software. “**AWS Services**” means each of the services made available by AWS as may be updated by AWS from time to time in its sole discretion at <https://aws.amazon.com/service-terms/> and are subject to the AWS Customer Agreement or other agreement governing your use of AWS Services.

2. Limitations. You will comply with all instructions and requirements in any integration documents, guidelines, or other documentation that we provide. You will not, and you will not encourage, assist or authorize any other person, directly or indirectly, to: (a) copy the Software or incorporate any portion of the Software into your own programs or compile any portion of the Software in combination with your own programs in any manner inconsistent with this Agreement; (b) sell, rent, lease, lend, loan, or distribute, act as a service bureau, provide access of any kind to the Software to others, publicly communicate, transform, or sub-license the Software or otherwise assign or grant any rights to the Software in whole or in part; (c) modify, alter, tamper with, repair, or otherwise create derivative works of the Software; or (d) reverse engineer, disassemble, or decompile the Software or apply any other process or procedure to derive the source code of any software included in the Software except as otherwise permitted by law without a license. You will not use the Software with any software or other materials that are subject to licenses or restrictions (e.g., open source software licenses) that, when combined with the Software, would require us to disclose, license, distribute or otherwise make all or any part of such Software available to anyone. You will not remove, modify, or obscure any copyright, patent, trademark or other proprietary or attribution notices on or in any Software.

3. Hazardous or Critical Uses. The Software is not intended for use in, or in association with, the operation of any hazardous environments or critical system that may lead to serious bodily injury or death or cause environmental

damage including but not limited to any aircraft navigation or communication systems, air traffic control systems or any other transport management systems; safety-critical applications, including medical or life-support systems, vehicle operation applications or any police, fire or other safety response systems; or military or aerospace applications.

4. Feedback. You have no obligation to give AWS any suggestions, comments, or other feedback relating to the Software or AWS IoT services (“**Feedback**”). If you provide Feedback to AWS, AWS may use and exercise any and all rights in the Feedback without obligation or restriction of any kind during and after the term of this Agreement, and Feedback will not be deemed to be confidential information or otherwise create any confidentiality obligation. You will not provide any Feedback that: (a) you know is subject to any patent, copyright, or other intellectual property claim or right of any third party; or (b) is subject to license terms which seek to require any products incorporating or derived from the Feedback, or other AWS intellectual property, to be licensed to or otherwise shared with any third party.

5. Reservation of Rights. The Software and all intellectual property in and to the Software, is owned by AWS or its licensors. The Software is protected by Applicable Law, including without limitation copyright laws and international treaty provisions. Except for the rights expressly granted to you in this Agreement, all right, title and interest in the Software are reserved and retained by AWS and our licensors. Except for the license rights expressly granted under Section 1 above, you do not acquire any intellectual property or other rights in the Software as a result of downloading, installing, using or distributing the Software.

6. Updates. In order to keep the Software up-to-date, we may offer automatic or manual updates or upgrades at any time and the terms of this Agreement govern any updates or upgrades to the Software that we may provide that replace or supplement the original Software, unless the update or upgrade is accompanied by a separate license, in which case the terms of that license will govern such update or upgrade. Notwithstanding the preceding sentence, we may require that you implement specific updates and upgrades (for example, security patches) in all copies of the Software (i) that are in your possession or control or (ii) for which you have automatic update rights (“**Required Updates**”). We make no representations or warranties with respect to the nature or availability of any future updates or upgrades to the Software. You acknowledge and agree that your failure to maintain and timely update Software may result in incompatibility with AWS Services.

7. Termination. You may terminate this Agreement at any time by uninstalling and destroying all copies of the Software that are in your possession or control. This Agreement (including any rights granted to you under the terms of this Agreement) will immediately and automatically terminate without notice from us if (a) you fail to comply with any term or condition of this Agreement or any other agreement you have with AWS (including the failure to implement Required Updates); (b) your AWS Customer Agreement or other agreement governing your use of AWS Services terminates; or (c) you bring any action for intellectual property right infringement against AWS or any AWS customer utilizing AWS Services. In the case of termination, you must cease all downloading, installation, use and distribution of the Software and uninstall and destroy all copies of the Software that are in your possession or control. Our failure to insist upon or enforce your strict compliance with this Agreement will not constitute a waiver of any of our rights. No waiver of any provision of this Agreement shall be effective unless in writing.

8. Disclaimer of Warranties and Limitation of Liability.

a. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT DOWNLOADING, INSTALLATION, USE AND DISTRIBUTION OF, AND ANY OTHER ACCESS TO, THE SOFTWARE IS AT YOUR SOLE RISK. THE SOFTWARE AND ANY SERVICES ARE PROVIDED TO YOU “AS IS” WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND AWS, ITS LICENSORS AND DISTRIBUTORS, AND EACH OF THEIR RESPECTIVE AFFILIATES AND SUPPLIERS (COLLECTIVELY, THE “**RELEASED PARTIES**”) DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, NON-INFRINGEMENT, LACK OF VIRUSES, ACCURACY, RESULTS, AND LACK OF NEGLIGENCE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY A RELEASED PARTY OR ANY REPRESENTATIVE OF A RELEASED PARTY WILL CREATE A WARRANTY. YOU BEAR THE RISK OF UNDERTAKING ANY ACTIVITIES UNDER THIS LICENSE. THE APPLICABLE

LAW OF CERTAIN JURISDICTIONS DOES NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES. IF SUCH APPLICABLE LAW APPLIES TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

b. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NO RELEASED PARTY WILL BE LIABLE TO YOU FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY RELATED TO THE SOFTWARE, ANY SERVICES OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY DAMAGES ARISING OUT OF BUSINESS INTERRUPTION; PERSONAL INJURY; PROPERTY DAMAGE; USE OF OR INABILITY TO USE THE SOFTWARE OR ANY SERVICES; OR LOSS OF PROFITS, REVENUE, DATA, CONFIDENTIAL OR OTHER INFORMATION, OR LOSS OF PRIVACY, EVEN IF A RELEASED PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU ACKNOWLEDGE AND AGREE THAT THE SOFTWARE AND ANY SERVICES ARE NOT INTENDED FOR USE IN SITUATIONS OR ENVIRONMENTS WHERE ERRORS, DELAYS, FAILURES OR INACCURACIES IN THE TRANSMISSION OF DATA OR INFORMATION THROUGH THE SOFTWARE OR SERVICES COULD LEAD TO DAMAGE OF ANY KIND INCLUDING DEATH, PERSONAL INJURY, OR FINANCIAL, PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE. IN ANY CASE, ANY RELEASED PARTY'S AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO \$50.00. THE APPLICABLE LAW OF CERTAIN JURISDICTIONS DOES NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. IF SUCH APPLICABLE LAW APPLIES TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

9. Indemnification. You are liable for and will defend, indemnify, and hold harmless AWS and its officers, directors, agents, employees, and other representatives from and against any liability, loss, damage, cost, or expense (including reasonable attorneys' fees and expenses) arising out of (a) your downloading, installation or use of the Software (including in combination with devices, software, or other items), (b) unauthorized use of the software (c) breach of this Agreement, including any unauthorized use, disclosure or distribution of the Software, (d) violation of Applicable Law, (e) violation of any right of any person or entity, including without limitation intellectual property rights, (f) any statements, claims, representations or warranties made by you or your authorized representatives relating to the Software, other than as authorized or made by AWS in writing and (g) any third party claim for personal or bodily injury arising from installation or use of the Equipment (including without limitation illness and death) or property damage (each, a "**Claim**"). You will use counsel reasonably satisfactory to us to defend each Claim. You will not agree to any settlement containing any admission of any guilt, fault, liability or wrongdoing on the part of AWS which would otherwise adversely affect AWS without AWS's prior written consent, to be provided at AWS's sole discretion. If we reasonably determine that a Claim might adversely affect us, we may take control of the defense at our expense (and without limiting your indemnification obligations). Your obligations under this Section 9 are independent of your other obligations under this Agreement.

10. Compliance with Laws; Export Regulations.

a. You will comply with all applicable laws, rules, regulations, orders, decrees, and other requirements of governmental agencies (as each of these may be amended or modified from time to time) (collectively, "**Applicable Law**") in your use of the Software and in the development and use of Equipment using or accessing any Software, and in any marketing, sales, handling, storage, use, disposal, or transshipment of any Equipment developed using the Software. You will not engage in any activity using or related to the Software, including the development or distribution of devices, that (a) infringes, violates, or misappropriates the rights of us or any third party, or (b) interferes with, damages, or accesses or uses in any unauthorized manner the hardware, software, networks, technologies, or other properties or services of ours or of any end user or other third party.

b. You acknowledge that the Software is subject to U.S. export jurisdiction. You will comply with all Applicable Law that applies to the Software, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. You represent and warrant that you and your financial institution(s) 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 but not limited to the lists maintained by the United Nations Security

Council, the U.S. Government (e.g., the U.S. Department of Treasury'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. You will not directly or indirectly export, re-export, transmit, or cause to be exported, re-exported or transmitted, the Software or any computer equipment or device containing the Software to any country, individual, corporation, organization, or entity to which such export, re-export, or transmission is restricted or prohibited, including any country, individual, corporation, organization, or entity under sanctions or embargoes administered by the United Nations, U.S. Departments of State, Treasury or Commerce, the European Union, or any other applicable government authority.

11. U.S. Government End Users. The Software is provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" will be governed by the rights, restrictions, terms and conditions set forth in this Agreement. If you are using the Software on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, you will immediately discontinue your use of the Software. The terms "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data" are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

12. Amendment. We may amend this Agreement at our sole discretion by posting the revised terms on the AWS website (aws.amazon.com) or within the Software. Your continued use of the Software after any amendment's effective date evidences your agreement to be bound by it. If you do not agree to a change, you must stop using the Software.

13. Survival. Sections 2-5, 8-11 and 13-15 survive termination of this Agreement for any reason.

14. Supplemental Terms and Conditions; Injunctive Relief. In the event of any conflict or inconsistency among this Agreement and your existing AWS Customer Agreement or AWS Enterprise Agreement, such conflict or inconsistency will be resolved by giving precedence to this Agreement with respect to the subject matter contained herein. You agree that, if you breach or threaten to breach this Agreement in any manner, we will suffer irreparable damage for which money damages will be inadequate, and we will be entitled to preliminary injunctive relief and other injunctive relief without having to wait for you to cure the breach and without having to post a bond or other security. Such injunctive relief shall be in addition to, and in no way in limitation of, any and all other remedies we may have in law or equity, or under this Agreement, for the enforcement of this Agreement.

15. Entire Agreement and Severability. This is the entire agreement between AWS and you regarding the Software and supersedes all prior understandings regarding such subject matter (including any Evaluation Agreement). Neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other. If any term or condition of this Agreement is deemed invalid, void, or for any reason unenforceable, that part will be deemed severable and will not affect the validity and enforceability of any remaining term or condition.