

Updated: August 29, 2018

ACRONIS SOFTWARE LICENSE AGREEMENT

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Subject to the terms and conditions of this Agreement, upon payment of all license fees owed for the Software, Licensor grants and Licensee accepts a nonexclusive, nontransferable, non-assignable (unless such prohibition is otherwise prohibited by local law), limited license (“Software License”) to use the Software solely in accordance with the terms and conditions of this Agreement. The Software is to be installed and/or deployed on the specific number of machines or virtual environments for which a Software License has been purchased and paid for. You may use a single Software License for one physical machine or virtual environment unless otherwise specified under the “Acronis Licensing Policy,” which can be found at <https://www.acronis.com/legal/licensing.htm>.

If your Software License is designated for only one physical machine or virtual environment at a time, you may transfer your software License to a new machine provided the original installation is completely removed and no longer in use. If you wish to deploy the Software on multiple machines, you must purchase additional software licenses for the additional deployments.

2. SCOPE OF LICENSE

Notwithstanding any references to “purchase”, the Software is licensed and not sold pursuant to this Agreement. This Agreement confers a limited license to the Software only and does not constitute a transfer of title to, or sale of, all or a portion of the Software or the underlying intellectual property. You acknowledge that Acronis or its licensors own all right, title, and interest in and to the Software and Services and all associated materials and services, including without limitation, the structure, organization, source code, all copyrights, patents, trade secrets, and other intellectual property rights throughout the world, in and to the original and all copies, portions, extracts, selections, arrangements, adaptations, compilations, and any derivatives of the Software and Services, or software or content provided through or in conjunction with the Software or Services, and all features, updates, releases, enhancements, bug fixes, workarounds, patches, updates, and all associated documentation and product packaging. Except for the license granted in this Agreement, all rights in and to the Software and Services are reserved, and no implied licenses are granted by Acronis. Acronis retains sole ownership of all copyrights, patents, trade secrets, and other intellectual property rights throughout the world in and to the original and all copies and portions of the Software (including any features and associated services) and all associated documentation and product packaging. This Agreement governs all updates, upgrades, releases, or enhancements to the Software that may be provided to you. The Software contains certain technologies that are protected by United States patents, a full list of such patents may be found at <https://www.acronis.com/company/ipnotice.html>.

You agree not to conduct, cause, consent or permit others to (1) sublicense, lease, rent, loan, transfer, or distribute the Software, or any portion, extract, selection, arrangement, adaptation, compilation, or derivative thereof, to any third party; (2) make error corrections, modify, adapt, translate, or prepare derivative works from the Software; (3) decompile, reverse engineer, disassemble, or otherwise attempt to derive source code from the Software or reduce the Software to human-readable form, or attempt to reconstruct or discover any source code or underlying ideas, algorithms, file formats, or programming or interoperability interfaces of Software or of any files contained or generated using Software by any means whatsoever, except to the extent otherwise expressly permitted under applicable law, notwithstanding this restriction, without the prior express written consent of the Licensor, any such created works are derivative works and as such are the sole and exclusive property of Licensor; (4) decrypt data or extract portions of the Software's files for use in other applications, (5) remove, obscure or alter Acronis' or

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In addition, certain third party code may be provided with the Software. To the extent that such third-party code is subject to license terms that vary from the terms in this Agreement, you may find the third-party license terms accompanying such code at <https://kb.acronis.com/content/7696> and in the license.txt file located in the root installation directory, and those terms will govern your use of such code.

3. SOFTWARE UPDATES, SUPPORT AND MAINTENANCE

- a. If you register your Software with Acronis, you are entitled to (a) "patch" or "dot" releases of Software; and (b) other electronic services Acronis makes generally available to its customers, including its knowledge base, which can assist in answering general questions about the Software. Any unauthorized modifications to the Software will void this provision.
- b. Notwithstanding Section 3(a), if you are licensing Acronis Backup Cloud, any support and maintenance of the Acronis Backup Cloud shall be provided by the reseller entity from which you are directly purchasing Acronis Backup Cloud license.

4. ACCEPTABLE USE AND CONDUCT

By registering for and/or by using the Software or Services, you represent and warrant that you have the legal capacity and authority to enter into a binding agreement and to adhere to this Agreement, and that you will use the Software and the Services only in accordance with this Agreement and with all applicable laws. If an individual is registering or using the Software or Services on behalf of an entity or organization, that individual warrants, represents, and covenants to Acronis that such individual is duly authorized to agree to this EULA on behalf of the organization and to bind the organization to them. The Software and Services are intended, and offered, only for lawful use by individuals or organizations with the legal capacity and authority under applicable law to enter into a contract for such products and services. Acronis does not offer the Software or Services to minors or where otherwise prohibited by law.

Without limiting the foregoing:

(1) You acknowledge and agree that the Software may be subject to export controls in the United States and other countries. You agree to comply with all United States export laws and regulations and with all export or import regulations of other countries, and you shall not and shall not allow any third-party to remove or export from the United States or allow the export or re-export of any part of the Software or Services or any direct product thereof (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; or (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval. You assume sole responsibility for any required export approval and/or licenses and all related costs and for the violation of any United States export law or regulation.

(2) You may not use the Software and/or Services if you are a citizen, national, or resident of, or are under control of the government of: Cuba, Iran, Sudan, North Korea, Syria, or any other country to which the United States has prohibited export. Each time you use the Software or Services you represent, warrant, and covenant that (a) you are not a citizen, national, or resident of, nor under the control of the government of any such country to which the United States has prohibited export; (b) you will not download or otherwise export or re-export the Software, directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries; (c) you are not listed on the U.S. Department of Treasury's Lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, the U.S. Department of State's List of Statutorily Debarred Parties, or the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List Table of Denial Orders; (d) you will not download or otherwise export or re-export the Software, directly or indirectly, to persons on the above mentioned lists; (e) you will neither use nor allow the Software to be used for any purposes prohibited by United States federal or state law, including, without limitation, for the development, design, manufacture, or production of nuclear, chemical, or biological weapons of mass destruction; (f) the Software and the Services will not be exported, directly, or indirectly, in violation of these laws, nor will the Software or Services be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation; and (g) you are not using or permitting others to use the Software or Services to create, store, backup, distribute, or provide access to child pornography or any other content or data which is illegal under the relevant laws of the United States, Switzerland, Singapore and Licensee's jurisdiction.

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Acronis cannot decrypt your files if You have elected to encrypt.

You have selected the location of your data and understand that local laws where the selected data centers are located may be different than the laws of the country in which You reside. Acronis will comply with the local laws of the jurisdiction in which You reside and also the jurisdiction where the data center storing your data is located. As a result, You acknowledge that Acronis or Acronis affiliates may use servers and other equipment to provide the Acronis Backup Cloud and Platform that are located in countries where litigants, law enforcement, courts, and other agencies of the government may have the right to access data stored within their jurisdictions upon terms and conditions provided by local law. Acronis may also provide access to your data to government authorities if Acronis suspects or believes that the data contains child pornography or other prohibited content or data or that the Data is being used for illegal purposes.

ACRONIS SHALL HAVE THE ABSOLUTE AND UNILATERAL RIGHT IN ITS SOLE DISCRETION TO DENY USE OF AND ACCESS TO ALL OR ANY PORTION OF THE SOFTWARE OR SERVICES TO LICENSEE OR OTHER USERS WHO ARE DEEMED OR SUSPECTED BY ACRONIS TO BE USING THE SOFTWARE OR SERVICES IN A MANNER NOT REASONABLY INTENDED BY ACRONIS OR IN VIOLATION OF LAW OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO SUSPENDING OR TERMINATING A LICENSEE'S, OR ANOTHER USER'S, ACRONIS ACCOUNT WITH ACRONIS AND THE LICENSE TO USE THE SOFTWARE OR SERVICES.

5 PRIVACY AND DATA PROTECTION

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Acronis reserves the right, consistent with data privacy and other user data protection requirements applicable to the jurisdiction where data is stored, and if mandated by applicable law, regulation, legal process, or governmental order, disclose user Data or other information, but only to the extent required to satisfy those laws, regulations, or orders. Unless prohibited by law or other order, Acronis will provide reasonable notice of any such required or requested disclosure to You and reasonably cooperate to limit such disclosure to the extent allowed by law. You acknowledge and agree that the support Services that may be provided pursuant to the Agreement can be provided from countries other than the country in which You are based. If You prefer that support services be provided solely from the United States, such service can be provided at an additional cost to You.

6 CONFIDENTIALITY

The Software and Services contain trade secrets (as defined by applicable law) of Licensor and are proprietary to Licensor. Licensee shall maintain the Software and the Services in confidence and prevent disclosure of the Software and Services using at least the same degree of care it uses for its own most critical proprietary information, but in no event less than a reasonable degree of care. Licensee shall not disclose or provide access to the Software or Services or any part thereof to anyone for any purpose, other than to employees or other parties authorized under this Agreement for the purpose of exercising the rights expressly granted under this Agreement.

7 WARRANTY

If Acronis provides You with Software in the form of tangible media, Acronis warrants that the media upon which the Software is recorded will not be defective under normal use for a period of ninety (90) days from delivery. Acronis will replace any defective media returned to Acronis within the warranty period at no charge to you. Acronis warrants that the Software, as delivered by Acronis and when used in accordance with the software documentation provided by Acronis, will substantially conform to the software documentation provided with the Software for a period of ninety (90) days from the date of delivery. If the Software does not comply with this warranty and such non-compliance is reported by You to Acronis within the warranty period, Acronis will do one of the following in its sole discretion (a) repair the Software; or (b) replace the Software with software that has substantially the same functionality. This warranty excludes defects resulting from accidents, abuse, unauthorized repair or modification, enhancements or misapplication of the Software. THE FOREGOING WARRANTY SET FORTH IN THIS SECTION IS YOUR SOLE AND EXCLUSIVE REMEDY FOR ACRONIS' BREACH OF THIS WARRANTY.

8 DISCLAIMER OF WARRANTIES

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE ACRONIS SOFTWARE AND SERVICES AND ANY THIRD PARTY SOFTWARE AND SERVICES IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. EXCEPT FOR THE LIMITED WARRANTY ON MEDIA SET FORTH ABOVE 7 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW THE ACRONIS SOFTWARE AND SERVICES ARE PROVIDED "AS IS," WITH NO WARRANTIES

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9 LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL ACRONIS OR ITS AFFILIATES (INCLUDING SUPPLIERS, RESELLERS, OR PARTNERS) OR THEIR RESPECTIVE EXECUTIVES, EMPLOYEES, SHAREHOLDERS OR CONTRACTORS BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, DIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING FROM OR RELATED TO YOUR USE OR INABILITY TO USE THE ACRONIS SOFTWARE AND SERVICES OR THIS AGREEMENT, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE) AND EVEN IF ANY SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ACRONIS', OR IT'S AFFILIATES', TOTAL LIABILITY TO YOU, FOR ALL DAMAGES EXCEED THE AMOUNT, IF ANY, PAID BY YOU TO ACRONIS FOR THE SOFTWARE AND/OR SERVICES DURING THE TWELVE MONTHS PRIOR TO THE EVENT WHICH GAVE RISE TO THE DAMAGES IN QUESTION. IF THE SOFTWARE AND SERVICES ARE PROVIDED WITHOUT CHARGE, THEN THERE SHALL BE NO LIABILITY TO YOU WHATSOEVER. THE FOREGOING IS YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH. THIS LIMITATION OF LIABILITY FOR PERSONAL INJURY OR EXCLUSION OF INCIDENTAL, CONSEQUENTIAL, OR DIRECT DAMAGES, WILL APPLY ONLY TO THE EXTENT PERMITTED UNDER APPLICABLE LAW. THE DISCLAIMERS AND LIMITATIONS SET FORTH ABOVE WILL APPLY REGARDLESS OF WHETHER OR NOT YOU ACCEPT THE SOFTWARE, UPDATES OR UPGRADES.

10 GOVERNMENT END USERS

As to direct and indirect U.S. Government Users, notwithstanding Sections 4 and 5:

- a. This Agreement applies to all Software and Services acquired directly or indirectly by or on behalf of the United States Government. The Software and Services are commercial products and services as defined in FAR 12.212 and subject to restricted rights as defined in FAR Section 52.227-19 and DFARS 227.7202, as applicable, and any successor regulations. Use, modification, duplication, or disclosure by the U.S. Government shall be solely in accordance with the terms of this Agreement and is subject to the restrictions set forth in subparagraph (c) of the Commercial Computer Software Restricted Rights clause of FAR 52.227-19.
- b. You have selected the United States as the default location for your data and understand that Acronis will comply with applicable U.S. Federal laws where You and your Data reside. As a result, You acknowledge that Acronis or Acronis affiliates may use servers and other equipment to provide the Acronis Backup Cloud and Platform that are located only in the United States, where U.S. Federal litigants, law enforcement, courts, and other agencies of the United States government may have the right to access Your data. Acronis may also provide access to your data to U.S. Federal government authorities if Acronis suspects or believes that the data contains child pornography or other prohibited content or data or that the Data is being used for illegal purposes.
- c. Acronis reserves the right, consistent with U.S. Federal data privacy and other user data protection requirements, and if mandated by U.S. Federal applicable law, regulation, legal process, or governmental order, disclose user Data or other information, but only to the extent required to satisfy those U.S. Federal laws, regulations, or orders. Unless prohibited by U.S. Federal law or other order, Acronis will provide reasonable notice of any such required or requested disclosure to You and reasonably cooperate to limit such disclosure to the extent allowed by law. You acknowledge and agree that the support Services that may be provided pursuant to the Agreement can be provided only from the United States.
- d. The parties acknowledge that nothing in this Agreement shall be interpreted to imply consent by any U.S. Government End User to submit to the adjudicative or enforcement power of any regulatory, administrative, or judicial authority of, or the application of the laws of, another jurisdiction. Any license provisions that are inconsistent with U.S. federal procurement regulations or applicable U.S. Federal laws are not enforceable under this Agreement.

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11 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, USA, exclusive of its conflicts of laws provisions and without regard to the United Nations Convention on Contracts for the International Sale of Goods, and any suit under this Agreement shall exclusively be brought in a federal or state court in Massachusetts. The failure of Acronis to exercise or enforce any right or provision of this Agreement does not constitute a waiver of such right or provision. Any waiver of any provision of this Agreement will be effective only if in writing and signed by Acronis. If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, the remainder of this Agreement will continue in full force and effect. This Agreement, which incorporates the current and all future updates to the Acronis Privacy Statement and the Acronis Licensing Policy, each of which may be updated from time to time (see: <https://www.acronis.com/Legal.htm>), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. You may not assign or transfer any of your rights or obligations under this Agreement to a third party without the prior written consent of Acronis. Acronis may freely assign this Agreement. Any attempted assignment or transfer in violation of the foregoing will be void.

12 CONTACTING ACRONIS

Users with questions about this Agreement or the Privacy Statement may contact Acronis at: <https://www.acronis.com/support>.

13 CHANGES TO THIS AGREEMENT

Acronis may amend this Agreement including any referenced policies and other documents from time to time. If we make material changes to this Agreement, we will notify You by posting the change on our website or sending You an e-mail at your primary email address. Any changes to this Agreement will be effective immediately for new end users; otherwise for existing end users, the changes will be effective upon the earlier of thirty (30) calendar days following e-mail notice to You or thirty (30) calendar days following our posting of the notice on our website.