

# DATAWARRIOR



## SOFTWARE LICENSE AGREEMENT

THIS SOFTWARE LICENSE AGREEMENT ("AGREEMENT" OR "EULA") GOVERNS THE USE OF THE 4TRESS SOFTWARE ("SOFTWARE"). FOR THE PURPOSES OF THIS AGREEMENT DATAWARRIOR IS A MANUFACTURER AND PROVIDER OF THE 4TRESS TOOL. WHERE REFERENCE IS MADE TO AN AGREEMENT WITH 4TRESS THIS MEANS AN AGREEMENT WITH DATAWARRIOR. DATAWARRIOR IS WILLING TO LICENSE THE 4TRESS SOFTWARE TO YOU AS AN INDIVIDUAL OR LEGAL ENTITY ("LICENSEE" OR "YOU"), AND IF APPLICABLE TO YOUR SOFTWARE LICENSE, TO PROVIDE YOU WITH SUPPORT AND MAINTENANCE SERVICES ("SERVICES"), PROVIDED, AND ONLY ON THE CONDITION THAT, YOU ACCEPT AND AGREE TO COMPLY WITH ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. THIS AGREEMENT APPLIES TO ANY UPDATES OR SERVICES FOR THE SOFTWARE OR FOR THE SERVICES PROVIDED TO YOU BY 4TRESS, UNLESS OTHER TERMS SPECIFICALLY COVER THOSE ITEMS.

BY CLICKING "I ACCEPT THIS AGREEMENT" OR SIGNING THIS AGREEMENT AND/OR USING THE SOFTWARE OR BY USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ AND ACCEPTED ALL OF THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND THAT THIS ACTION ESTABLISHES A LEGAL, ENFORCEABLE, AND BINDING AGREEMENT BETWEEN YOU AND DATAWARRIOR. IF YOU DO NOT ACCEPT ALL OF THE TERMS OF THIS AGREEMENT, YOU SHALL HAVE NO RIGHT TO USE THE SOFTWARE, YOU MUST IMMEDIATELY CEASE USING THE SOFTWARE AND YOU MUST DELETE OR REMOVE ALL ASSOCIATED SOFTWARE AND ASSOCIATED FILES.

DATE OF LAST UPDATE: May 26, 2023

### 1. SOFTWARE LICENSE GRANT

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 will be hosted by DataWarrior in relation to the specific number of endpoints for which a Software License has been purchased and paid for. You may use a single Software License for each licensed Acronis Endpoint or Microsoft O365 user.

## 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 4TRESS 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, organisation, 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 4TRESS. 4TRESS 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 patents of the European Union.

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 4TRESS' or any third party's product names, trademarks or patent, copyright, or other proprietary rights notices, or ownership attribution statements affixed to or contained within or accessed in conjunction with or through the Software;
- (6) use or permit the Software to be used to perform services for third parties, whether on a service bureau or time-sharing basis or otherwise, without the express written authorisation of 4TRESS; or

- (7) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to the Software. You shall be responsible and liable for the actions of your affiliates, employees, agents, and any third party who obtains access to the Software licensed to Licensee.

### 3. SOFTWARE UPDATES, SUPPORT AND MAINTENANCE

- a) If You register your Software with 4TRESS, You are entitled to
- i. "patch" or "dot" releases of Software; and
  - ii. other electronic services 4TRESS makes generally available to its customers, including its knowledge base, which can assist in answering general questions about the Software. Any unauthorised modifications to the Software will void this provision.

### 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 organisation, that individual warrants, represents, and covenants to DataWarrior that such individual is duly authorised to agree to this EULA on behalf of the organisation and to bind the organisation to them. The Software and Services are intended, and offered, only for lawful use by individuals or organisations with the legal capacity and authority under applicable law to enter a contract for such products and services. DataWarrior does not offer the Software or Services to minors or where otherwise prohibited by law.

Without limiting the foregoing:

- 4.1 You acknowledge and agree that the Software may be subject to export controls of respective countries. You agree to comply with all European Union 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 European Union 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 EU Commerce Department's Table of Denial Orders or EU 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 European Union 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 European Union export law or regulation.

- 4.2 You may not use the Software and/or Services if You are a citizen, national, or resident of, any country to which the European Union 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 European Union 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 EU Department of Treasury's Lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, the EU Department of State's List of Statutorily Debarred Parties, or the EU 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 the European Union, 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 European Union and Licensee's jurisdiction.

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. 4TRESS will comply with the local laws of the jurisdiction in which You reside and the jurisdiction where the data center storing your data is located. As a result, you acknowledge that 4TRESS or 4TRESS affiliates may use servers and other equipment to provide the 4TRESS 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. 4TRESS may also provide access to your data to government authorities if 4TRESS 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.

4TRESS 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 4TRESS TO BE USING THE SOFTWARE OR SERVICES IN A MANNER NOT REASONABLY INTENDED BY 4TRESS OR IN VIOLATION OF LAW OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO SUSPENDING OR TERMINATING A LICENSEE'S, OR ANOTHER USER'S, 4TRESS ACCOUNT WITH 4TRESS AND THE LICENSE TO USE THE SOFTWARE OR SERVICES.

## 5. PRIVACY AND DATA PROTECTION

Except as otherwise stated in this Agreement, the Software is subject to DataWarrior's Privacy Statement at <https://www.datawarrior.pt/privacidade-e-termos>. 4TRESS ASSUMES NO RESPONSIBILITY FOR THE DELETION OF DATA, LOSS OF DATA, OR THE FAILURE TO STORE DATA. 4TRESS has no obligation to monitor the use of the Services and/or data transmitted or stored through the Software.

4TRESS 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, 4TRESS 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.

## 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 authorised under this Agreement for the purpose of exercising the rights expressly granted under this Agreement.

## 7. WARRANTY

DataWarrior warrants that the Software, as delivered by 4TRESS and when used in accordance with the software documentation provided by 4TRESS, 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 4TRESS within the warranty period, 4TRESS 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, unauthorised repair or modification, enhancements or misapplication of the Software. There is no warranty, express or implied, for any beta, preview, trial, or similarly labeled Features, as Section 14 below defines this term. THE FOREGOING WARRANTY SET FORTH IN THIS SECTION IS YOUR SOLE AND EXCLUSIVE REMEDY FOR

## 4TRESS' BREACH OF THIS WARRANTY.

### 8. DISCLAIMER OF WARRANTIES

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE 4TRESS 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 IN SECTION 7 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW THE 4TRESS SOFTWARE AND SERVICES ARE PROVIDED "AS IS," WITH NO WARRANTIES WHATSOEVER. 4TRESS AND SUCH THIRD PARTIES EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY LAW ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS BY FILTERING, DISABLING, OR REMOVING SUCH THIRD PARTY'S SOFTWARE, SPYWARE, ADWARE, COOKIES, EMAILS, DOCUMENTS, ADVERTISEMENTS OR THE LIKE. IT IS AT YOUR OWN DISCRETION AND RISK THAT YOU USE THE SOFTWARE. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS. 4TRESS MAKES NO WARRANTIES OR REPRESENTATIONS THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE OR SERVICES WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE SOFTWARE OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE SOFTWARE OR SERVICES WILL BE CORRECTED. YOU MAY HAVE OTHER WARRANTY RIGHTS, WHICH MAY VARY FROM STATE TO STATE AND COUNTRY TO COUNTRY. THE PARTIES AGREE THAT THE LIMITATIONS OF THIS SECTION ARE ESSENTIAL AND THAT LICENSEE WOULD NOT BE PERMITTED TO USE THE SOFTWARE IF LICENSEE HAD NOT AGREED TO THESE TERMS. THIS SECTION WILL SURVIVE AND APPLY EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

### 9. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL 4TRESS 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 4TRESS 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 4TRESS, OR IT'S AFFILIATES, TOTAL LIABILITY TO YOU, FOR ALL DAMAGES EXCEED THE AMOUNT, IF ANY, PAID BY YOU TO 4TRESS 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. THE PARTIES AGREE THAT THE LIMITATIONS OF THIS SECTION ARE ESSENTIAL AND THAT LICENSEE WOULD NOT BE PERMITTED TO USE THE SOFTWARE IF LICENSEE HAD NOT AGREED TO THESE TERMS. THIS SECTION WILL SURVIVE AND APPLY EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE

## 10. GOVERNMENT END USERS

As to direct and indirect EU 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 European Union.
- b) You have selected the European Union as the default location for your data and understand that 4TRESS will comply with applicable EU laws where You and your Data reside. As a result, You acknowledge that 4TRESS or 4TRESS affiliates may use servers and other equipment to provide the 4TRESS Platform that are located only in the European Union, where EU litigants, law enforcement, courts, and other agencies of the European Union may have the right to access your data. 4TRESS may also provide access to your data to EU government authorities if 4TRESS 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) 4TRESS reserves the right, consistent with EU data privacy and other user data protection requirements, and if mandated by EU applicable law, regulation, legal process, or governmental order, disclose user Data or other information, but only to the extent required to satisfy those EU laws, regulations, or orders. Unless prohibited by EU law or other order, 4TRESS 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 European Union.
- d) The parties acknowledge that nothing in this Agreement shall be interpreted to imply consent by any EU 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 EU procurement regulations or applicable EU laws are not enforceable under this Agreement.

## 11. MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the laws of the European Union, 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 court in the European Union. The failure of 4TRESS 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 4TRESS. 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 4TRESS Privacy Statement and the 4TRESS Licensing Policy, each of which may be updated from time to time (see: <https://www.DataWarrior.biz/en-us/legal.html>), 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 4TRESS. 4TRESS may freely assign this Agreement. Any attempted assignment or transfer in violation of the foregoing will be void. Upon any termination of this EULA, Licensee will immediately cease use of the Software and remove all Software from its systems. The terms and conditions set forth in the Sections 2, 4, 5, 6, 8, 9, and 11 as well as those provisions that by their nature are intended to survive termination or expiration of this EULA, will so survive.

## 12. CONTACTING 4TRESS

Users with questions about this Agreement or the Privacy Statement may contact 4TRESS at: <https://www.datawarrior.pt/privacidade-e-termos>

## 13. CHANGES TO THIS AGREEMENT

4TRESS 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. It is your responsibility to ensure the primary email address is valid. 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. At any point in time 4TRESS may in its sole and absolute discretion introduce license fees for any Software, Services, or parts or individual components thereof ("Features"), regardless of whether 4TRESS previously charged separately for such features.