

BACKUPPRO

TERMS OF USE AND END USER LICENSE AGREEMENT

This is a legal agreement between you and BackupPro, a business located in Australia and having its registered office at 795 Botany Road, Rosebery NSW Australia 2018 and its subsidiaries ("BackupPro"). BackupPro is the owner of accompanying BackupPro Software and this Agreement lays down the terms and conditions upon which BackupPro offers to license the BackupPro Software together with accompanying items including but not limited to, the executable programs, drivers, libraries and data files associated with such programs and all related documentation (collectively, "The BackupPro Software").

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If you are installing The BackupPro Software merely for the purpose of evaluating the performance of the same, The BackupPro Software will consist of an evaluation version of The BackupPro Software. Else, The BackupPro Software comprises of a client component ("BackupPro Client Agent Software"), which is to be installed on each computer, server or such like device, which is to be backed up.

If you are installing the evaluation version of The BackupPro Software on one of your computers or such like devices to evaluate the performance of The BackupPro Software, this Agreement applies to the installation and / or use of the evaluation version of The BackupPro Software on that particular computer or device.

If you are installing the BackupPro Client Agent Software on one of your computers, servers or such like device which is to be backed-up, this Agreement applies to the installation and / or use of the BackupPro Client Agent Software on that particular computer / device.

3. Grant of License

If you are installing and / or using the evaluation version of The BackupPro Software, subject to the terms and conditions of this Agreement, the Licensor grants to you a non-exclusive, non-transferable and limited right to use the evaluation version of The

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The data sent and received using The BackupPro Software may contribute towards your data allowance from your Internet Service Provider (ISP). As some ISPs charge extra for exceeding your monthly quota, BackupPro strongly recommends you regularly check and monitor

- i) Your monthly upload and download allowance,
 - ii) Whether uploads are counted,
 - iii) Whether your ISP charges for excess usage or throttles your bandwidth.
- BackupPro takes no responsibility for additional charges incurred from your ISP.

7. Pricing and Minimum Term

The minimum term for any paid usage of The BackupPro Software is three months. This term excludes any trials or evaluations of The BackupPro Software.

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10. Indemnity

If you use or distribute The BackupPro Software in violation of this Agreement, you hereby agree to indemnify, hold harmless and defend BackupPro from and against any and all claims or lawsuits, including attorney's fees and costs that arise, result from or are connected with the said use or distribution of The BackupPro Software in violation of this Agreement.

11. Right to Collect Information

The BackupPro Software contains programs that collect data about your use of the Software. You agree that BackupPro may collect such data about your use of The BackupPro Software and that the data collected through such programs may be used by BackupPro to monitor your compliance with the terms of this Agreement, to provide you with support services and/or to improve The BackupPro Software. You agree that you will not prevent or in any manner restrict the right of BackupPro to collect such data about your use of The BackupPro Software.

12. Support Services

Notwithstanding anything contained anywhere in this Agreement, BackupPro shall not be responsible to you for the maintenance or for the provision of support services for The BackupPro Software under this Agreement.

13. Third Party Software

Portions of The BackupPro Software include software with open source licenses from third parties that govern the use of those portions. Nothing contained herein limits the rights and obligations you may have under such open source licenses. However, the disclaimer of warranty and limitation of liability provisions in this Agreement will apply to The BackupPro Software as a whole. For details of the open source software included in the Software and the terms of the license for the same, please refer <http://BackupPro.BackupPro.com/online-backup/open-source-license-agreement.php>

14. Governing Law & Jurisdiction

This Agreement is governed by the laws of the State of New South Wales, Australia. You agree that any dispute between the parties arising out of or in connection with this Agreement (including any question regarding its existence, validity or termination) shall be submitted exclusively to the competent courts located at Sydney, New South Wales, Australia to the exclusion of any other court that may have jurisdiction in the matter.

15. General

This Agreement is binding on you as well as your employees, contractors, agents and any person who uses the computer / device on which The BackupPro Software is installed. This Agreement is also binding on your successors and assignees. This Agreement is the entire agreement between us and supersedes all previous agreements, arrangements, understandings or representations (including advertisement) relating to the subject matter hereof. If any provision of this Agreement is deemed invalid or unenforceable that particular provision will be deemed modified to the extent necessary to make the provision valid and enforceable and the remaining provisions will remain in full force and effect. Any failure or delay by a party to exercise any right or remedy under this Agreement shall not operate as a waiver of that right or remedy.