

SOFTWARE TERMS OF SERVICE

IMPORTANT: PLEASE READ THIS TERMS OF SERVICE AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE AND SERVICE (AS DEFINED BELOW). BY INDICATING ELECTRONIC CONSENT, INSTALLING THE SOFTWARE OR USING THE SERVICE, YOU AGREE TO ALL OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE, CLICK THE BUTTON THAT INDICATES REFUSAL OF THESE TERMS, DISCONTINUE YOUR INSTALLATION OF THE SOFTWARE AND MAKE NO FURTHER USE OF THE SOFTWARE OR SERVICE.

This agreement (the "**Agreement**") is a legal agreement between you, either an individual or a single legal entity ("**You**" or "**you**"), and AVAST Software a.s., a Prague, Czech Republic company ("**AVAST**") for itself and on behalf of Decho Technology International Limited and its affiliates ("**Decho**"). This Agreement governs your use of the avast! BackUp client software distributed with this Agreement, including any accompanying written documentation (the "**Software**") and the avast! BackUp, (the "**Service**"). The terms of this Agreement also apply to any updates, supplements and support services for the Software and Service, unless other terms accompany those items.

All or portions of the Service provided to you hereunder, including storage of data backed up via the Service as well as credit card processing of Service fees, may be provided by Decho and one or more of AVAST's third-party providers, resellers or agents (collectively, the "**Service Partners**"). By accepting this Agreement, you consent to the provision of all or any portion of the Software and Service by such third-party Service Partners.

SERVICE PERIOD

You will have certain rights to use the Software and Service during the Service Period. The "**Service Period**" begins on the date you first purchased the Service (or, in the case of users of the trial version of the Service, the date that you first signed up for the Service) and continues for the period of time set forth in the Service documentation or other transaction materials provided at the time you obtained the Software and Service.

PRIVACY AND COMMUNICATIONS

By entering into this Agreement, you agree to the collection, use and disclosure of your personal information by AVAST and its Service Partners in accordance with following:

- (a) Once you register with AVAST and sign in to the Service, you are not anonymous to AVAST or its Service Partners. When registering the Service, you will be required to provide certain personal information, which may include company name, industry, number of employees, phone number, your title, city, state, country, zip code, a user name, confirmed email address, and a password.
- (b) Unless you have designated otherwise, the information collected by the Software and Service may be used anonymously in aggregation with similar information from other users of the Software and Service for analytical purposes and for improvement and development of the Software Service and for statistical purposes.
- (c) When backing data up with the Service, you send AVAST's Service Partners that data and you also are sending file system information, including names of files and directories. AVAST or its Service Partners may record your IP address when you submit information and may collect, at your option, certain preference and demographic information from you.
- (d) You may opt to remove your personal information from the Service database by contacting AVAST and canceling your Service account or by logging into your account, selecting My Profile, and clicking on 'Delete Account'.

(e) AVAST and its Service Partners will not view the files that you backup using the Service; however, AVAST or its Service Partners may view your file system information (file extensions, sizes etc. but not your file contents) to provide technical support.

(f) AVAST and its Service Partners have no obligation to monitor use of the Service and/or any data transmitted or stored through the Service.

(g) You acknowledge and agree that AVAST or its Service Partners may occasionally send you administrative communications regarding your account or the Service via email.

By using the Software and Service you acknowledge and agree that AVAST or its Service Partners or agents may collect and use the information as described above or as otherwise designated in the AVAST privacy policy posted on the Website. You are giving this consent on behalf of all users of the Software and Service under this license and you accept full responsibility for informing all users and acquiring their fully informed, free and valid consent with processing of their personal information by the Software and Service as described above.

The collected information may be transferred to third parties or to other countries that may have less protective data protection laws than the country or region in which you are situated (including the European Union). AVAST and its Service Partners take measures to ensure that any collected information will receive an adequate level of protection if and when transferred.

You consent during the term of this Agreement and for one (1) year thereafter to (i) AVAST sharing information collected by you during your purchase, installation or registration of the Software with its Service Partners and (ii) use of such information by AVAST, its Service Partners and distributors to present you with information that may be relevant to you, including offers of software, services or other products

To the maximum extent permissible under applicable law and notwithstanding anything to the contrary in this Agreement, AVAST reserves the right at all times to monitor, review, retain and/or disclose any data or other information, as necessary, to satisfy any applicable law, regulation, legal process or governmental request, or to investigate any suspected breach of this Agreement.

ACCOUNTS, PASSWORDS, AND SECURITY

You must be a registered user to access the Service. You are responsible for keeping your password secure. You will be solely responsible and liable for any activity that occurs under your user name. If you lose your password or the encryption key for your account, you may not be able to access your data. You must immediately notify AVAST of any unauthorized use of your account or any other breach of security regarding the Software, Service or Website that comes to your attention. If AVAST concludes that there has been or is likely to be a breach of username or password security AVAST may (at its sole discretion):

(a) suspend your username(s) and passwords; and

(b) require you to change any or all of the username(s) and/or password(s) you use in connection with the Service.

PAYMENT

All fees for the Service are charged in advance using the payment method you provide when you activate the Service. When you provide your credit or debit card or other payment information, you authorize AVAST or its Service Partners to automatically charge your card or payment account for charges that apply to your Service account. Service fees will be billed monthly or annually in advance and are subject to change by AVAST or its Service Partners.

You will provide all information necessary for AVAST or its Service Partners to bill you for the Service. You confirm that the payment card or account used by you is yours or that you are authorized to use such card or account and there are sufficient funds or credit facilities to cover the payment. You confirm that the

information you supply is correct and complete and that you are responsible for directly updating or notifying AVAST of any changes to your payment method (including, but not limited to the card number, expiration date, billing address or card status).

If you upgrade your Service during an existing Service Period, you will be billed in full, in advance for the new Service. Any remainder of the prior pre-paid subscription may not be refunded.

You may not be able to access or use the Service and/or the Software or other items or services, and orders for items or services made available through the Website may not be processed, until AVAST (or its Service Partner) has completed any validation checks against your designated payment method and AVAST (or its Service Partner) has received payment in full. Additional provisions regarding payment and your rights to any refund are set out on our Website or in the Terms of Sale provided to you at the time you purchase the Service.

ACCEPTABLE USE AND CONDUCT

You are solely responsible for your conduct, your use of the Service and the consequences of any failure by you to comply with the terms and conditions of this Agreement.

The Software and Service are made available to you only for your personal use, which use must be in compliance with all applicable laws, rules and regulations and must not infringe or violate third party rights.

Without prejudice to the generality of the above, you may not:

- (a) use the Software or Service to upload, store or transmit any data, information or materials that:
 - (i) infringe the intellectual property or other rights of third parties (for example, illegal copies of music tracks, TV programming and / or movies);
 - (ii) contain any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, racially, ethnically or otherwise objectionable material of any kind;
 - (iii) contain viruses, "Trojan Horses", worms, cancelbots, corrupted files or other such similarly destructive features;
- (b) otherwise in any way damage, disable or impair the operation of the Software or Service, or attempt to do any of the same;
- (c) gain or attempt to gain unauthorized access to the Software or Service, or to networks connected to it, or to content stored or delivered through it, by any means, including by hacking, spoofing or seeking to circumvent or defeat any firewalls or other technological or other protections or security measures;
- (d) make commercial use of the Software or Service, including but not limited to selling or distributing the Software and/or Service to any third party;
- (e) transmit or store data belonging to another party without first obtaining all consents from the owner which are required by law for transmission of the data to AVAST and its Service Partners for storage in Ireland;
- (f) use the Software or Service for any unlawful or improper purpose, including in violation of the terms and conditions of this Agreement.

Any unauthorized use of the Software or Service or any computer system of AVAST or its Service Partners is a violation of this Agreement and applicable laws. Such violations may subject the unauthorized user and his or her agents to civil and criminal penalties.

CONSENT TO COLLECT PERSONAL DATA, NON-PERSONALLY IDENTIFIABLE STATISTICAL INFORMATION AND PERFORMANCE METRICS; USE AND DELETION OF DATA

When you use the Software and/or Service, AVAST or its Service Partners may request and/or you may provide certain personal data.

The Software and Service may also collect certain technical and statistical non-personally identifiable information that resides on your computer, including, without limitation, statistics relating to how often backups are started and completed, performance metrics relating to the Software, and configuration settings.

The personal data and other information sent to/collected by AVAST and its Service Partners will be used in accordance with our Privacy Policy, which may be posted on the Website or otherwise provided to you in connection with your purchase and use of the Software and Service.

When your account is terminated for any reason or you delete a particular device or machine associated with your account, you agree that we may delete any data that you have stored, which is associated with the relevant account and/or machine.

CHANGES TO THE SOFTWARE, SERVICE AND TERMS AND CONDITIONS

Although AVAST and its Service Partners may, in their sole discretion, update and maintain the Software and Service, AVAST and its Service Partners are under no obligation to do so other than as expressly provided in this Agreement.

AVAST reserves the right at any time to modify, suspend, or discontinue providing the Software and Service or any part thereof in its sole discretion with or without notice.

AVAST will use commercially reasonable efforts to notify you of modification, suspension, or discontinuance of the Service or any major changes to this Agreement either by sending an email to the email address you provide with your registration or by a posting on our website or the client application. However, in no event will AVAST or its Service Partners be liable to you or to any third party for any modification, suspension or discontinuance of the Service with or without notice.

AVAST reserves the right at any time to modify this Agreement in its sole discretion, without liability to you. Revised versions of this Agreement are effective immediately upon posting to the Website or the client application, inclusion in documentation accompanying the Software and Service, or AVAST sending an email to the address you provide with your registration. You agree to be bound by this Agreement, as modified. If you do not agree to any changes to this Agreement, you must terminate your account immediately.

USE OF SOFTWARE

Subject to the terms and conditions of this Agreement, AVAST grants you a non-exclusive, non-transferable, non-sublicensable license for the term of this Agreement to install and execute one (1) copy of the Software (in executable code form only) only on a single computer and only for the purpose of accessing and using the Service. Certain third party code may be provided with the Software. The third-party license terms accompanying such code, and not the terms of this Section, will govern your use of such code.

The Software and its structure, organization, source code, and documentation contain valuable trade secrets of AVAST, its Service Partners and its licensors, and accordingly you agree not to (and agree not to allow third parties to) (1) sublicense, lease, rent, loan, transfer, or distribute the Software and/or Service or any derivative thereof to any third party, (2) modify, adapt, translate, or prepare derivative works from the Software or Service, (3) decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Software or Service, (4) extract portions of the Software's files for use in other applications, or (5) remove, obscure, or alter AVAST's, its Service Partners' or any other third party's trademarks or

copyright or other proprietary rights notices affixed to or contained within or accessed in conjunction with or through the Software or Service.

INTELLECTUAL PROPERTY

You acknowledge that AVAST, its Service Partners or third parties own all right, title and interest in and to the Software and Service, portions thereof, or software or content provided through or in conjunction with the Software or Service, including without limitation all intellectual property rights. Except for the license granted in this Section, all rights in and to the Software and Service are reserved, and no implied licenses are granted by AVAST or its Service Partners.

TERM AND TERMINATION

This Agreement becomes effective when AVAST or its Service Partner has successfully processed your payment.

This Agreement and your right to use the Software and Service remain in effect until your account is terminated or upon expiration of the Service Period.

Following the expiration or termination of the Service Period: (i) data stored using the Service will be at risk of being purged; and (ii) except as stated in this Agreement, AVAST will not be obligated to maintain your data, to forward such data to you or any third party or to migrate such data to another service or account. If you are a user of the trial version of the Service, AVAST may, at its discretion, terminate your account if you have not accessed or used the Service for more than fifteen (15) days. If you are a paying user of the Service, AVAST may terminate your account after e-mail notification if you have failed to make payment in full for thirty (30) days.

In addition, AVAST reserves the right, at its sole discretion, to immediately suspend use of the Service or terminate this Agreement if you fail, or if AVAST reasonably believes that you have failed, to comply with these terms and conditions.

You agree that, upon termination of this Agreement, you will destroy and permanently erase all copies of the Software and that your access rights to the Service will immediately terminate. The terms of the Sections entitled Consent To Collect Personal Data, Non-Personally Identifiable Statistical Information and Performance Metrics; Use and Deletion of Data, Intellectual Property, Warranties, Indemnity and Disclaimers, Limitation of Liability, and Miscellaneous will survive expiration or termination.

If this Agreement terminates, other than for your failure to comply with the terms and conditions of this Agreement or the terms of sale associated with your purchase of the Service, AVAST will use commercially reasonable efforts to make your Data available for you to download for a period of thirty (30) days or such longer period as may be required by applicable law.

WARRANTIES, INDEMNITY AND DISCLAIMERS

Nothing in these terms and conditions excludes, restricts or affects your statutory rights.

The Software and Service will be provided to you with reasonable skill and care. In this context, you specifically acknowledge and accept that the Service, as with other internet applications, is not capable of being 100% secure and AVAST does not guarantee the prevention or detection of any unauthorized attempts to access your data through the Service, the Website and/or other systems and services of AVAST or its Service Partners.

AVAST and its Service Partners also cannot be held responsible for any loss or corruption of data or any unauthorized access of such data that takes place over third party systems and services used by you to transmit the data to or retrieve the data from AVAST or its Service Partners. It is also entirely your responsibility to protect your computer from computer viruses by installing and updating adequate anti-virus software.

Without prejudice to any other provision of this agreement, if a failure with the Website, the Software, the Service, and other content, information, material, software or other items or services made available or provided by AVAST or its Service Partners through the Website or the Service ("Other Materials") materially or permanently prevents you from accessing or retrieving any data that you have stored through the Service, then AVAST shall, at AVAST's option either (a) resolve the issue or (b) refund to you that proportion of the price you paid for the Service which is reasonably attributable to the data in question, taking into account its size relative to the total volume of data stored by you during the term of this agreement. To the maximum extent permitted under applicable law, such resolution or refund is AVAST's and its Service Partners' entire liability and your exclusive remedy relating to any such failure.

TO THE FULLEST EXTENT PERMITTED BY LAW, THE SOFTWARE AND SERVICE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS.

TO THE FULLEST EXTENT PERMITTED BY LAW, AVAST AND ITS SERVICE SUPPLIERS, EXCLUDE AND EXPRESSLY DISCLAIM ALL OTHER EXPRESS OR IMPLIED TERMS AND CONDITIONS, CONDITIONS, WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS WHATSOEVER WITH REGARD TO THE WEBSITE, THE SOFTWARE, THE SERVICE AND/OR OTHER MATERIALS OR CONTENT INCLUDING WITHOUT LIMITATION THOSE AS TO SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS, INCLUDING AS ANY OF THOSE MAY ARISE FROM COURSE OF DEALING OR TRADE, AND ANY WARRANTIES OR OTHER TERMS REGARDING THE AVAILABILITY, SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SOFTWARE, THE SERVICE, THE WEBSITE AND SUCH THIRD PARTY SOFTWARE OR SERVICES. NO ADVICE OR INFORMATION GIVEN BY AVAST, ITS SERVICE PARTNERS OR ANY OF THEIR RESPECTIVE EMPLOYEES, AFFILIATES, AGENTS, OR CONTRACTORS WILL SERVE TO ALTER THE TERMS OF THIS AGREEMENT OR CREATE ANY WARRANTY. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, TECHNICAL SUPPORT FOR THE SOFTWARE AND SERVICE IS NOT WARRANTED AND IS USED AT YOUR OWN RISK.

AVAST AND ITS SERVICE PARTNERS SHALL NOT BE LIABLE FOR (I) DATA ACCESSED BY OR TRANSACTIONS MADE IN CONNECTION WITH USE OF THE SERVICE, (II) ANY LOSS OR DAMAGE RESULTING FROM THE ILLEGAL, INCORRECT OR INAPPROPRIATE USE OF THE WEBSITE, THE SOFTWARE, THE SERVICE AND/OR OTHER MATERIALS BY YOU OR ANYONE ELSE USING YOUR ACCOUNT OR (III) ANY FORCE MAJEURE EVENTS. AVAST MAY REQUIRE YOU TO REIMBURSE US FOR ANY REASONABLE AND FORESEEABLE LOSSES, COSTS, EXPENSES, DAMAGES OR OTHER LIABILITY THAT AVAST OR ITS SERVICE PARTNERS INCUR AS A DIRECT RESULT OF THE MISUSE OF THE WEBSITE, THE SOFTWARE, THE SERVICE AND/OR ANY OTHER MATERIALS EITHER BY YOU OR BY SOMEONE USING YOUR ACCOUNT. FOR THE PURPOSE OF THIS SECTION, "MISUSE" SHALL BE CONSTRUED AS INCLUDING (I) ANY USE OF THE WEBSITE, THE SOFTWARE, THE SERVICE AND/OR OTHER MATERIALS THAT IS IN BREACH OF THIS AGREEMENT (INCLUDING AVAST'S PRIVACY POLICY); AND/OR (II) ANY USE OF THE WEBSITE, THE SOFTWARE, THE SERVICE AND/OR OTHER MATERIALS IN CONNECTION WITH WHICH AVAST OR ITS SERVICE PARTNERS ARE REQUIRED TO DEFEND THEIR OWN INTERESTS BEFORE A COURT, GOVERNMENT AGENCY, INDUSTRY REGULATOR, SELF-REGULATORY BODY OR SIMILAR MEMBERSHIP ORGANIZATION, OR DISPUTE RESOLUTION BODY AND/OR INCURS ANY LOSSES, COSTS, EXPENSES, DAMAGES OR OTHER LIABILITY IN CONNECTION WITH ANY THREATENED OR ACTUAL CIVIL, CRIMINAL OR ADMINISTRATIVE PROCEEDINGS.

LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL AVAST, ITS SERVICE PARTNERS OR THEIR RESPECTIVE AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES ARISING FROM OR RELATED TO THE SOFTWARE OR SERVICE, WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, (EVEN IF AVAST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES).

WITHOUT LIMITING THE FOREGOING, SAVE IN THE CASE OF DEATH OR PERSONAL INJURY CAUSED BY AVAST'S NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES, OR WHERE WE HAVE ACTED FRAUDULENTLY, THE TOTAL AGGREGATE LIABILITY OF AVAST AND ITS SERVICE

PARTNERS AND THEIR RESPECTIVE AFFILIATES ARISING FROM OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT, IF ANY, PAID BY YOU FOR THE SOFTWARE OR SERVICES IN THE SERVICE PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM(S) MADE. IF THE SOFTWARE AND SERVICES ARE PROVIDED WITHOUT CHARGE, THEN AVAST AND ITS SERVICE PARTNERS SHALL HAVE NO LIABILITY TO YOU WHATSOEVER.

THE FOREGOING LIMITATIONS OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON THE SOFTWARE OR SERVICE, FROM INABILITY TO USE THE SOFTWARE OR SERVICE, OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE SOFTWARE OR SERVICE (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES). SUCH LIMITATION SHALL APPLY NOTWITHSTANDING A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND TO THE FULLEST EXTENT PERMITTED BY LAW.

THE SOFTWARE AND SERVICE ARE NOT INTENDED FOR USE IN CONNECTION WITH ANY NUCLEAR, AVIATION, MASS TRANSIT, OR MEDICAL APPLICATION OR ANY OTHER INHERENTLY DANGEROUS APPLICATION THAT COULD RESULT IN DEATH, PERSONAL INJURY, CATASTROPHIC DAMAGE, OR MASS DESTRUCTION, AND YOU AGREE THAT AVAST AND ITS SERVICE PARTNERS WILL HAVE NO LIABILITY OF ANY NATURE AS A RESULT OF ANY SUCH USE OF THE SOFTWARE OR SERVICE.

INDEMNIFICATION.

To the fullest extent permitted by law, you shall indemnify and hold harmless AVAST and its Service Partners and their respective subsidiaries, affiliates, officers, directors, employees and agents from and against any third party claims, demands, costs, damages, losses, liabilities and expenses, including reasonable attorneys' fees, arising out of or in connection with use of the Service by your or others through your Service account, including but not limited to liability arising from or connected with the data transmitted or stored by the Service in connection with your Service account.

EXPORT REGULATIONS

You agree and accept that the Software and related documentation may be subject to import and export laws of any country, including those of the United States and the European Union. If you transfer or export the Software, which in all cases must be done in accordance with this Agreement, you agree to and acknowledge that you are exclusively responsible for complying with all applicable laws and regulations, including all United States and European Union trade sanctions and export regulations (including any activities relating to nuclear, chemical or biological materials or weapons, missiles or technology capable of mass destruction), regardless of the country in which you reside in or are a citizen

MISCELLANEOUS PROVISIONS

Your ability to use the Website, the Software and/or the Service will depend on your geographical location, and whether you have appropriate technical equipment, including connectivity and bandwidth, available to you to download software and use the Service properly, as well as other factors. We recommend that you check, and you are responsible for checking, that you have all necessary equipment, internet connectivity and systems properly to download the Software and use the Website, the Software and/or the Service.

You acknowledge and agree that the Software may be controlled for export purposes. You agree to comply with all applicable export laws and regulations, including those of the United States and the European Union. You assume sole responsibility for any required export approval and/or licenses and all related costs and for the violation of any export law or regulation. If you are located in a country subject to embargo or similar restriction by the United States government or regulations of the European Union, you are not entitled to use the Software or Service.

This agreement will be governed by and construed in accordance with the laws of the State of California, without giving effect to any conflict of laws and provisions that would require the application of the laws of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

The failure of AVAST or its Service Partners to exercise or enforce any right or provision of this Agreement does not constitute a waiver of such right or provision. 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 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. Any waiver of any provision of this Agreement will be effective only if in writing and signed by AVAST.

All disputes arising out of this Agreement will be subject to the laws of the State of California and the parties agree and submit to the personal and exclusive jurisdiction and venue of the courts of Santa Clara county, California, except that nothing will prohibit AVAST or its Service Partners from instituting an action in any court of competent jurisdiction to obtain injunctive relief or protect or enforce their intellectual property rights.

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 AVAST. AVAST may freely assign this Agreement. Any attempted assignment or transfer in violation of the foregoing will be void from the beginning.

CONTACTING AVAST

If you have any questions regarding this Agreement or wish to request any information from AVAST, please write to us at AVAST Software, Budejovicka 1518/13A, 140 00 Praha 4, Czech Republic; e-mail us at support@avast.com; call us at: +420 274 005 777; or visit our support page at www.avast.com/support.