

## **End User License Agreement (hereinafter EULA)**

**Version: English/Multi-country**

**April 2016**

**The latest version of End User License Agreement is located at [www.egosecure.com](http://www.egosecure.com)**

Notice to all users: Carefully read the following legal agreement (“AGREEMENT”), for the license of EgoSecure Data Protection (“SOFTWARE”) this agreement is concluded between you and EgoSecure or its authorized partner which is an authorized organization or individual, who distributes the software based on an agreement with EgoSecure. For simplicity we refer to both EgoSecure and its authorized partner as “EgoSecure”.

If you have downloaded this software via internet by clicking the accept button, you (either an individual or a single entity) consent to be bound by and become a party to this agreement. If you do not agree to all of the terms of this agreement, click the button that indicates that you do not accept the terms of this agreement and do not install the software.

If you have purchased or got this software on a physical medium, having broken the CD’s sleeve you (either an individual or a single entity) are consenting to be bound by this agreement. If you do not agree to all of the terms of this agreement do not break the CD’s sleeve.

If you install or use the software you (either an individual or a single entity) are consenting to be bound by this agreement. If you do not agree to all of the terms of this agreement do not download, install or use this software.

If you install or use the software or have broken the CD’s sleeve or opened the box, you will not be entitled to return the software for refund. The right to return and refund extends only to the original purchaser.

Software licensed under this agreement include EgoSecure product and its components and all updates and upgrades delivered in object code form. All references to Software herein shall be deemed to include the software activation key (“License Key File”) with which you will be provided by EgoSecure as part of the Software.

### **§1 Types of licenses**

(1). **Subscription.** If the Software is subscription license software (Subscription) the Software licensed for the term of the subscription. The Subscription includes all **Upgrades** made generally available for the subscription period.

Note that to extend subscription license; you must purchase a new Subscription for the next term prior to the expiration of the current one.

(2). **License Software.** If the software is License Software, you are allowed to use the software on a perpetual basis. License Software doesn't include any **Upgrade Package** which should be acquired separately on a limited time period basis.

Note that to extend **Upgrade Package**, you must purchase a new **Upgrade Package** for the next period prior to the expiration of the current one.

(3) Upgrade Package and Subscription may be purchased/renewed for the next period until it is no longer offered.

(4) **Royalty/License free licenses.** You may use the software on a non-exclusive, non-transferable, non-assignable basis for your own personal, non-commercial use until you or EgoSecure terminates the license. EgoSecure reserves the right to terminate this license and your access without cause 30 days' prior written notice. Upon termination you must stop using and delete or destroy all copies of the software. During the term of this license, only web-based support during business hours is available to you. To the fullest extent permitted by applicable law, the software is provided "AS IS" without warranties of any kind.

## §2 Support

(1) If the End User has ordered **License Software with Upgrade Package** or **Subscription** and is current in paying all amounts due thereunder, the End User is eligible to get support consistent with the level of service purchased. Support will be provided remotely. Support shall consist of: (i) supplying telephone or electronic support, as determined by EgoSecure in its sole discretion, to End User in order to help to locate and correct problems with the Software and (ii) supplying all extensions, enhancements and other changes (Updates) that EgoSecure, at its sole discretion, makes or adds to the Software and which EgoSecure makes generally available, without additional charge, to other licensees of the Upon mutual written agreement by both parties, it may, but shall not be required to: (i) supply code corrections to End User to correct Software malfunctions in order to bring such Software into substantial conformity with the published operating specifications for the most current version of the Software unless End User's unauthorized modifications prohibit or hamper such corrections or cause the malfunction; or (ii) supply code corrections to correct insubstantial problems at the next general release of the Software.

(2) Technical support is effective upon the effective date of the ordering document unless otherwise stated in your order. If your order was placed through an online store, the effective date is the date your order was accepted.

(4) Proof of legal ownership and/or registration is required to obtain support.

## §3 Reproduction Rights

(1) You are allowed to copy the program supplied provided such reproduction is necessary to use the program. Necessary reproduction includes installing the program from the original data carrier into the main memory of the hardware being used and loading the program into the RAM.

(2) Reproduction for back-up purpose is also allowed.

(3) Other copies, including printouts of the program code or photocopies of the manual are not allowed.

## **§4 Restrictions**

End User shall not (and shall not allow any third party to): (a) decompile, disassemble, or otherwise reverse engineer the Software or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Software by any means whatsoever; (b) distribute, sell, sublicense, rent, lease or use the Software (or any portion thereof) for time sharing, hosting, provider or like purposes; (c) remove any product identification, proprietary, copyright or other notices contained in the Software; (d) modify or create a derivative work of any part of the Software; or (e) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to the Software.

## **§5 Sale and Lease to Third Parties. Assignment**

(1) Under no circumstances you shall sell, loan, rent, lease, loan, license, sublicense, publish, display, distribute, or otherwise transfer to a third party the Software, any copy or use thereof, in whole or in part, without EgoSecure prior written consent, provided that if such non-waivable right is specifically granted to you under applicable law in your jurisdiction you may transfer your rights under this Agreement permanently to another person or entity, provided that a) you also transfer this Agreement, the software, all accompanying printed materials.

(2) Except as otherwise specifically provided herein, you may not transfer or assign any of the rights granted to you under this Agreement or any of your obligations pursuant hereto.

## **§6 Ownership**

(1) Notwithstanding anything to the contrary contained herein, EgoSecure and its licensors have and will retain all rights, title and interest (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Software and all copies, modifications and derivative works thereof. End User acknowledges that it is obtaining only a limited license right to the Software and that irrespective of any use of the words “purchase”, “sale” or like terms hereunder no ownership rights are being conveyed to you under this Agreement or otherwise. End User acknowledges that any Licensors of EgoSecure have a substantial interest in the Software and that if this EULA is not directly concluded with these Licensors they are beneficiaries to this EULA.

(2) If requested, End User shall certify in writing that End User is using the Software for the number of servers, with the number of copies, on the system configuration and at the site agreed upon by the parties (as applicable). End User agrees that no more than once annually its use of the Software may be audited by EgoSecure or its Licensors (or and independent auditor work on such party’s behalf) during normal business hours upon reasonable advance written notice for the purpose of verifying End User’s compliance with this EULA.

## **§7 Warranty**

(1) Any defects in the software delivered, including manuals and other documents, will be corrected upon notification by the End User within the implied warranty period of 12 months from the date of delivery. EgoSecure can opt to repair the defect free of charge or replace the defective item.

(2) If the defects cannot be corrected within a reasonable period of time, or if repair or replacement fails for any other reason, the End User can opt either to claim a reduction in the purchase price or

to rescind the contract. Repair and replacement can be regarded as having failed only if EgoSecure was given a reasonable chance to repair or replace the defect or if it is refused by the vendor or unacceptably delayed.

(3) EgoSecure does not provide any guarantee that the Software will operate correctly if the conditions stated in the System Documentation are violated or if you violates the terms of this agreement.

(4) Except for the foregoing, the software is provided “as is EgoSecure” make no representation and give no guarantee as to its use or performance. Except for any warranty, condition, representation or term the extent to which cannot be excluded or limited by applicable law EgoSecure make no warranty, condition, representation, or term (express or implied, whether by statute, common law, custom, usage or otherwise) as to any matter including, without limitation, noninfringement of third party rights, merchantability, satisfactory quality, integration, or applicability for a particular purpose. You assume all faults, and the entire risk as to performance and responsibility for selecting the software to achieve your intended results, and for the installation of, use of, and results obtained from the software.

(5) The warranty above shall not apply if you (a) make or cause to be made any modifications to this Software without the consent of EgoSecure, (b) use the Software in a manner for which it was not intended, or (c) use the Software other than as permitted under this Agreement.

## **§8 Limitation of Liability**

EgoSecure and its licensors will be liable for any claims or damages arising out of or in connection with this agreement only for intent and gross negligence. The foregoing limitation of liability shall not apply in the case of mandatory statutory regulations. EgoSecure and its licensors will particularly not be liable for any claims or damages arising out of or in connection with this agreement (I) If such damages result from use of the software not in accordance with the documentation; or (II) if the defect or damages are caused by the user, a third party modification or third-party add-on or third-party software.

EgoSecure and its licensors shall not be liable for any claims or damages arising from inherently dangerous use of the Software and/or Third Party Software licensed hereunder.

Anything to the contrary herein notwithstanding, is EgoSecure's total liability under this Agreement limited to an amount equal to the lower of the following two amounts: € 100.000 or an amount equal to the paid license fees for the software directly causing the damages. If the software Is provided to you as license fee free, then EgoSecure shall have no liability to you whatsoever. You recognize and acknowledge that such limitation of liability is an essential part of the agreement and is an essential factor in establishing license fee free licenses. You acknowledge that without your agreement to these limitations, EgoSecure would not be able to provide license fee free software.

Under no circumstances shall EgoSecure or its licensors be liable for other damages than direct damages. Any further liability of EgoSecure or its licensors is excluded, irrespective of the cause of action, whether in contract, tort or otherwise and regardless of whether Licensee was advised of the possibility of such damages.

In no event is EgoSecure or its licensors liable in any amount for special, incidental, consequential or indirect damages, costs or expenses, loss of good will, revenue or business profits, work

stoppage, data loss or exemplary or punitive damages arising out of or in connection with this Agreement.

In addition, federal law applies with regards to the liability of the Parties for personal injury or death to the extent it results from the negligence of the other party, its personnel or sub-contractors; and willful misconduct, fraud and gross negligence.

This software is not fault-tolerant and is not designed or intended for use in any hazardous environment requiring fail-safe performance or operation. This software is not for use in the operation of aircraft navigation, nuclear facilities, or communication systems, weapon systems, direct or indirect life-support systems, air traffic control, or any application or installation where failure could result in death, severe physical injury or property damage.

## **§9 Confidentiality**

You agree that the Software and any information relating to the Software including, but not limited to, any code, technology, know-how, ideas, algorithms, testing procedures, structure, interfaces, specifications, documentation, bugs, problem reports, analysis and performance information, and other technical, business, product, and data, the Documentation, including the specific design and structure of individual programs and the License Key File constitute confidential proprietary information of EgoSecure. You shall not disclose, provide or otherwise make available such confidential information in any form to any third party without the prior written consent of EgoSecure. You shall implement reasonable security measures to protect such confidential information, but without limitation to the foregoing shall use best endeavors to maintain the security of the License Key File.

## **§10 Export**

(1) Export laws and regulations of the relevant local export laws and regulations apply to the Software. You agree that such export control laws govern your use of the Software (including technical data) and any deliverables provided under this agreement, and you agree to comply with all such export laws and regulations (including “deemed export” and “deemed re-export” regulations. End User agree that no data, information, Software and/or materials (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

(2) End User solely responsible for compliance with applicable export and import laws and regulations, and also applicable trade sanctions and embargo in relation to the transfer of rights and the use of this Software.

## **§11 Term and Termination**

Your rights under this Agreement will terminate immediately without notice from EgoSecure if you materially breach it or take any action in derogation of EgoSecure and/or its licensors' rights to Software. Licensor or EgoSecure may terminate this Agreement should any Software become, or in Licensor or EgoSecure's reasonable opinion likely to become, the subject of a claim of intellectual property infringement or trade secret misappropriation. Upon termination, you will cease use of, and destroy, Software. The terms set forth in the sections entitled Restrictions, Ownership, Confidentiality, Warranty, Limitation of Liability shall survive any termination of this

EULA.

## **§12 General clause**

It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

This Agreement and any claims arising out of or relating to this Agreement and its subject matter shall be governed by and construed under the laws of Germany. In the event of any conflicts between foreign law, rules, and regulations, and German law, rules, and regulations, German law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

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## **Additional terms for EgoSecure Endpoint Antivirus powered by BitDefender**

These additional terms of the End User License Agreement govern, in addition to the above agreement, the use of Software from EgoSecure containing BitDefender SRL (“BitDefender”) code.

## **§ 13 Terms of license**

The license granted hereunder shall commence on the purchasing date of the software and shall expire at the end of the period for which the license is purchased.

## **§ 14 Ownership**

Notwithstanding anything to the contrary contained herein, except for the limited license rights expressly provided herein, EgoSecure and its suppliers have and will retain all rights, title and interest (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the software and all copies, modifications and derivative works thereof. End User acknowledges that it is obtaining only a limited license right to the software and that irrespective of any use of the words “sale”, “purchase” or like terms hereunder no ownership rights are being conveyed to you under this agreement or otherwise. End User acknowledges that BitDefender has a substantial interest in the software and that if this EULA is not directly conclude with BitDefender then BitDefender is a third party beneficiary to this EULA.

If requested, End User shall certify in writing that End User is using the Software for the number of servers, with the number of copies, on the system configuration and at the site agreed upon by the parties.

## **§15 Export Compliance**

End User acknowledges that the Software is subject to export and import restrictions by the United States government. End User 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 any direct product thereof: (i) into (or to a national or resident of) any embargoed or terrorist-supporting country; (ii) to anyone on the U.S. Commerce Department’s Table of Denial Orders or U.S.

Treasury Department's list of Specially Designated Nationals; (iii) 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; or (iv) otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority. End User agrees to the foregoing and warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Software is further restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity, without the prior permission of the United States government.

### **§16 Government Users**

The Software is commercial computer software. If the user or licensee of the Software is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this EULA in accordance with applicable laws for military purposes. The Software was developed fully at private expense. All other use is prohibited.

### **§ 17 Governing Law**

All actions and proceedings involving BitDefender SRL shall be governed by the laws of Romania without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods.