

# SAFEPOTS CLOUD SOLUTION

## Terms

These terms of service (“Terms”) are a legal agreement between you, either an individual or a single legal entity (“You” or “you”), and “Safepots Cloud”. Safepots Cloud online services and are referred to in these Terms as “Safepots.” These Terms govern your use of any Safepots online services (“Services”), the Safepots website (“Site”), the client software distributed with this Agreement and any other software provided by Safepots, including any updates and any accompanying written documentation (“Software”). Collectively, the Software, the Site and the Services may be referred to as the “Products.” By clicking the “I AGREE” or similar button, or using any Products, you agree to these Terms. If you do not agree to these Terms, then do not indicate acceptance and do not use the Products. If you agree to these Terms on behalf of a legal entity, you represent that you have the authority to bind that legal entity to these Terms.

You must register with Safepots to use the Services, and you agree to keep your registration information accurate, complete and up-to-date as long as you continue to use the Services. Safepots Home currently offers a free personal account with limited storage capacity (“Free Account”) and various fee-bearing accounts offering larger storage capacities and other feature enhancements (“Paid Accounts”). If you sign-up for a Paid Account, you agree to pay the fixed subscription and variable usage-based fees with a 30-day money back period, if any, for the account type you have selected and agree to any applicable restrictions, including quotas on the amount of storage you are allowed to use. If you exceed any quota allocated to your account, you agree that Safepots may restrict your ability to backup further data until you reduce your storage usage or upgrade your account. If you use a credit card for payment, you authorize Safepots to automatically renew your subscription and charge the then-current renewal fees to the credit card associated with your account unless you notify Safepots in advance that you do not want your subscription renewed.

You are responsible for keeping your passwords secure, and you agree not to disclose your passwords to any third party. You are solely responsible for any activity that occurs under your user names and accounts, including any sub-accounts. If you

lose your passwords or the encryption keys for your accounts, you may not be able to access your backup data. You must notify Safepots immediately of any unauthorized use of your accounts or any other security breach related to the Service. If Safepots determines that a security breach has occurred or is likely to occur, Safepots may suspend your accounts and require you to change your user names and passwords.

You agree that Safepots's collection, use and disclosure of your personal information, backup data or any other data will be governed by Safepots's Privacy Policy, which is incorporated into these Terms by reference.

Subject to these Terms, Safepots grants you a limited, non-exclusive, non-transferable and revocable license to access the Site and use the Services and Software. You may install and use the Software in executable form only on the number and type of devices that are specified in the then-current documentation for your account type as described on the Site or as specified in other transaction documentation provided by Safepots or an authorized reseller. You acknowledge that certain third party code may be provided with the Software and that the license terms accompanying that code will govern its use.

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You specifically agree that you will not, nor will you permit another person to:

- Sublicense, lease, rent, loan, transfer or distribute any portion of the Products;
- Modify, adapt, translate or create derivative works from the Products;
- Decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Products; or

Remove, obscure, or alter any trademark, copyright or other proprietary rights notices displayed in the Software or on the Site.

You are solely responsible for your conduct related to the Service and any backup data you store on the Service. You specifically agree that you will not use the Products to:

- Violate any laws or regulations;
- Infringe the intellectual property or other rights of third parties;

Transmit any material that contains viruses or other harmful computer code or files such as Trojan horses, worms or time bombs.

Safepots respects the intellectual property of others and requires that users of the Service do the same. When you use the Products, you may not upload, store, share, display, post, e-mail, transmit or otherwise make available any material that infringes any copyright, patent, trademark, trade secret or other proprietary rights of any person or entity. In appropriate circumstances, Safepots will terminate the accounts of infringers.

You agree to defend, indemnify, and hold Safepots, its suppliers, resellers, partners and their respective affiliates harmless from and against any claims, liabilities, damages, losses and expenses, including reasonable attorney fees and costs, in connection with:

- Your use of the Products
- Your violation of these Terms;
- Your violation of any third party right, including any intellectual property right; or
- Any claim that use of your backup data caused damage to a third party.

Safepots reserves the right at any time to modify, suspend, or discontinue providing the Service, in whole or in part, without notice. While not obligated to do so, Safepots will use commercially reasonable efforts to notify you of any such action by sending you an e-mail, an in-client message or by posting relevant information on the Site.

Safepots reserves the right to modify these Terms at any time, and each such modification will be effective upon posting on the Site. All material modifications will apply prospectively only. Your continued use of any Products following any such modification constitutes your agreement to be bound by the modified Terms. To stay informed of any changes, please review the most current version of these Terms posted on the Site. If you do not agree to be bound by these Terms, you must stop using the Products immediately.

These Terms, and any posted revisions, remain in effect as long as you continue to maintain an account or use the Services. You may terminate your account at any

time, for any reason, by following the instructions on the Site and discontinuing use of the Products.

If you have a Free Account, Safepots may terminate your account and these Terms immediately and without notice if Safepots software fails to access the Service or to perform a backup for more than fourteen (14) days (Safepots is not actively installed on your computer) or you fail to comply with these Terms. If you have a Paid Account (Premium or Business), Safepots may terminate your account and these Terms after (30) days and without notice if you fail to renew your subscription, fail to pay any fees or invoices when due or otherwise fail to comply with these Terms.

On termination or expiration of your account or these Terms, you will no longer have the right to continue to use the Software and the Services, and you will no longer be able to access and restore your backup data. Also, you specifically agree that Safepots has no obligation to provide you or anyone else with a copy of your backup data and may automatically purge your backup data from Safepots systems.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE EXCLUSIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

YOU SPECIFICALLY AGREE THAT YOUR USE OF THE PRODUCTS IS AT YOUR SOLE RISK, AND THE PRODUCTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. SAFEPOTS, ITS SUPPLIERS, RESELLERS, PARTNERS AND THEIR RESPECTIVE AFFILIATES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN PARTICULAR, SAFEPOTS, ITS SUPPLIERS, RESELLERS, PARTNERS AND THEIR RESPECTIVE AFFILIATES MAKE NO WARRANTY THAT (A) THE PRODUCTS WILL MEET YOUR REQUIREMENTS; (B) YOUR USE OF THE PRODUCTS WILL BE TIMELY, UNINTERRUPTED, SECURE OR ERROR-FREE; (C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF THE PRODUCTS WILL BE ACCURATE OR RELIABLE; AND (D) ANY DEFECTS OR ERRORS IN THE PRODUCTS WILL BE CORRECTED.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE PRODUCTS IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. YOU FURTHER ACKNOWLEDGE THAT THE PRODUCTS ARE NOT INTENDED OR SUITABLE FOR USE IN

APPLICATIONS THAT COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SOME OF THE EXCLUSIONS OR LIMITATIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

YOU SPECIFICALLY AGREE THAT SAFEPOTS, ITS SUPPLIERS, RESELLERS, PARTNERS AND THEIR RESPECTIVE AFFILIATES WILL NOT BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSSES (EVEN IF THE PARTY YOU ARE SEEKING DAMAGES AGAINST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM THE USE OR INABILITY TO USE THE PRODUCTS OR IN ANY WAY RELATING TO THE PRODUCTS.

IF YOU HAVE A PAID ACCOUNT, YOU AGREE THAT THE AGGREGATE LIABILITY OF SAFEPOTS, ITS SUPPLIERS, RESELLERS, PARTNERS AND THEIR RESPECTIVE AFFILIATES FOR ANY AND ALL CLAIMS IN CONNECTION WITH THE PRODUCTS IS LIMITED TO THE AMOUNT PAID FOR THAT ACCOUNT DURING THE 30 DAY PERIOD BEFORE THE RELEVANT CLAIM. IF YOU HAVE A FREE ACCOUNT, YOU AGREE THAT THE AGGREGATE LIABILITY OF SAFEPOTS, ITS SUPPLIERS, RESELLERS, PARTNERS AND THEIR RESPECTIVE AFFILIATES FOR ANY AND ALL CLAIMS IN CONNECTION WITH THE PRODUCTS IS LIMITED TO ONE US DOLLARS (\$1). YOU SPECIFICALLY AGREE THAT THIS DAMAGES LIMITATION IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN YOU AND SAFEPOTS.

## General Provisions

### A. Export Control

If You download software from a Website, You acknowledge that such software is subject to applicable export laws and regulations, including, but not limited to, the U.S. Export Administration Regulations. The export or re-export of software in violation of the foregoing laws and regulations is strictly prohibited. You agree to comply with all applicable export laws and regulations, as may be further described in an end user license agreement.

## B. Governing Law and Jurisdiction

**1. United States and Canada:** If You are a resident of the United States or Canada, these TERMS are governed by the laws of the State of New Jersey in the United States without regard to its conflict of laws provisions. You agree to personal jurisdiction by and exclusive venue in the state and federal courts sitting in the State of New Jersey, with regard to any and all claims arising out of or relating to the Websites or these TERMS.

**2. Other Jurisdictions:** If You are a resident of a jurisdiction that is not located in the United States, Canada, these TERMS are governed by the laws of India without regard to its conflict of laws provisions. You agree to personal jurisdiction by and exclusive venue in the courts sitting in Delhi, India, with regard to any and all claims arising out of or relating to the Websites or these TERMS.

These Terms constitute the entire agreement between you and Safepots and completely replace any prior agreements between you and Safepots in relation to the Products. If any part of these Terms is held invalid or unenforceable, that portion will be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions will remain in full force and effect. The failure of Safepots to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. You agree that, except as otherwise expressly provided in these Terms, there will be no third-party beneficiaries to this agreement. You agree that any claim or cause of action related to these Terms or the use of the Products must be filed within one (1) year after the cause of action arose or be forever barred.

You may not assign or transfer any of your rights or obligations under these Terms to a third party without the prior written consent of Safepots. Safepots may freely assign this Agreement.

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