

MICROSOFT COMMERCIAL TERMS OF USE FOR WINDOWS 10 IOT CORE RUNTIME IMAGES

This is an agreement between Microsoft Corporation (or based on where you live, one of its affiliates) ("Microsoft") and you ("You") ("Agreement"). This Agreement describes your rights and the conditions upon which you may commercially distribute the Windows 10 IoT Core Runtime Images created using validly licensed copies of the Windows 10 IoT Core software.

1. **Definitions**

- a. **"OS Updates"** means software updates provided by Microsoft to enhance the functionality and security of the Software. Unless you modify the automatic update setting, the Runtime Image will periodically check, download and install OS Updates when the Customer System is connected to the internet.
- b. **"Embedded Application"** means an industry-specific or task-specific software application developed by or for you, that you installed in an Customer System that provides the primary functionality of the Customer System.
- c. **"Customer System"** means an Embedded Application and customized Runtime Image for a device. .
- d. **"End User"** means a person, company or other legal entity that acquires a Customer System.
- e. **"EULA"** means the end user license agreement that you provide to your End Users for your Customer System.
- f. **"Excluded License"** means: any license that requires as a condition of use, modification or distribution of software subject to such license, that such software or other software combined and/or distributed with such software be: (1) disclosed or distributed in source code form; (2) licensed for the purpose of making derivative works; or (3) redistributable at no charge.
- g. **"Microsoft Account"** means: an account with Microsoft created by an End User that enables the End User to access products, websites and services provided by Microsoft and some Microsoft Partners.
- h. **"Software"** means the, software development tools, utilities, packaged files, sample code, and OS Updates provided by Microsoft that are licensed under the Microsoft Windows 10 IoT Core Software License Terms and includes WinPE.

- i. **"Runtime Image"** means the redistributable version of the Software, generated by you, in object code form, and any OS Updates installed on the Customer System.
- j. **"Windows 10 IoT Core Packages"** means Microsoft signed (by security certificate signature) operating system file packages provided in the Software used to generate your Runtime Image.
- k. **"WinPE"** means the Microsoft Windows Preinstallation Environment for Windows 10 licensed to you under the Microsoft Windows Assessment and Deployment Kit. WinPE is Software.
- l. **"Windows 10 Containers"** means certain runtime image components created using the Software created for the purpose of deploying and running the Runtime Image as a guest OS in a virtualized environment.
- m. **"Device Health Attestation" ("DHA")** means a feature of the Software that enables the detection and remediation of security compromised devices.
- n. **"Cortana"** means the Microsoft branded voice activated personal assistant feature in the Software.

2. **License Grants**

- a. **Runtime Image.** Subject to the requirements in Section 3 and restrictions in Section 4, Microsoft hereby grants to you a royalty-free, worldwide, non-exclusive, personal, non-transferable, non-assignable, limited license to install a Runtime Image into an Customer System and distribute your Customer System to End Users.
- b. **WinPE.** You may install and distribute a copy of WinPE with your Customer System to be used solely for the purpose of installing, deploying and repairing the Runtime Image. It may not be used as a general purpose operating system.

3. **License Requirements**

As a condition of your license, you agree to:

- a. Include the Windows 10 IoT Core Packages provided to you in the Software in your Runtime Image without any modifications.
- b. Configure your system firmware to comply with the System Management BIOS Requirements in the SMBIOS Specification to input data that identifies your Customer System's unique system configuration such as

manufacturer, product name and sku number. Specification and further information found here: <http://go.microsoft.com/fwlink/?LinkId=828731> .

- c. Maintain the serviceability of your Runtime Image by ensuring the Customer System is capable of receiving OS Updates even if you choose to modify your automatic update settings to defer OS Updates.
- d. Manufacture and distribute Customer Systems in compliance with all laws and applicable safety standards.
- e. Provide End Users with a EULA (End User License Agreement) that includes the end user license agreement terms that Microsoft provides you, which may include additional terms you have determined are appropriate provided that such additional terms are no less protective of the Software and Runtime Image than the terms provided to you by Microsoft.
- f. Privacy Default Settings: Provide Notice to End Users.

In some cases, you may configure default settings and features on your Customer System on behalf of the End User, including without limitation turning on by default Diagnostics, Location Services and Input Personalization such as speech and inking.

If you turn these settings and features on by default or if the Diagnostics settings are above the Basic Setting in your in a Runtime Image distributed to an End User, as a condition of your license grant in Section 2, you must:

- Notify the End User that these features have been enabled and provide the End User with the link to Microsoft's Privacy Statement web page at <http://go.microsoft.com/fwlink/?LinkId=521839>. If an End User is unable to access the link on the Customer System, a copy of this privacy statement must be provided to the End User by an alternative means that an End User is able to access along with other Customer System documentation that you provide to the End User;
- Secure consent from the relevant End User to enable such features by default, if required by and to the extent required by applicable law;
- Provide End Users the ability to change the Diagnostics setting back to the Basic Setting;

- **Microsoft Account Usage Data Deletion:**
If you enable the Microsoft Account on your Customer System and you have access to End User data from the Microsoft Account, if the End User deletes the Microsoft Account from the Customer System, you must enable simultaneous deletion of all the End User's Microsoft Account data on the device when the End User deletes the Microsoft Account from the Customer System.

4. **License Grant Restrictions & Limitations**

- a. Customer System Design.** Your Customer System must not be marketed as, or be designed to be used as, a general-purpose computing device (such as a personal computer), or a commercially viable substitute for a general-purpose computing device or Server.
- b. Windows 10 IoT Features For Development and Testing Only.** The following features may only be used for development and testing purposes, they may not be included in your Customer System or used for commercial purposes or activities:
 - i. Windows 10 Containers
 - ii. Device Health Attestation
 - iii. CortanaIf you wish to implement these features in your Customer System for commercial distribution you must execute a separate agreement with Microsoft.
- c. Excluded License.** You may not subject the Software or its derivative works in whole or in part to any of the terms of an Excluded License. Subject to this Agreement, you may distribute the Software with: (i) any software that is not subject to an Excluded License; or (ii) software that is subject to an Excluded License only if distributed in a manner that does not subject, or purport to subject, the Software or any Microsoft intellectual property related to the Software to the terms of an Excluded License.
- d. No Reverse Engineering.** You must not reverse engineer, decompile, or disassemble the Software, except and only to the extent applicable law expressly permits the activity.

- e. Intellectual Property Rights Notices. You must not remove or obscure any copyright, trademark or patent notices that appear on the Software as delivered to you.
- f. Logos. Your use of any Microsoft logos requires a separate logo license from Microsoft. Logo licenses and standard guidelines are posted at <https://www.microsoft.com/en-us/legal/intellectualproperty/trademarks/usage/general.aspx> or other site Microsoft may designate.
- g. Brand Names. Customer Systems must be marketed, licensed and distributed only under your brand names and trademarks.
- h. No Representations for Microsoft. You shall not make any representation or warranty (express or implied) to End Users or any other third party on behalf of Microsoft.
- i. No Distribution of Software as Stand-alone Product. You must not advertise, provide a separate price for, or otherwise market or distribute the Software, or any part of the Software, separate from a Customer System.

5. **Runtime Image and Customer System Maintenance**

WARNING: The Software is not fault-tolerant. The Software was not designed or intended for use in any Customer Systems where failure or fault of any kind of the Software could reasonably be seen to lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use").

You agree that you are responsible for maintaining the quality and security of your Runtime Image Customer System and you will:

- a. Test and examine your Runtime Image as installed on an Customer System to determine that each Runtime Image is suitable in quality and performance for use in the Customer Systems.
- b. If necessary, configure the update mechanism on your Runtime Image to ensure that any OS Updates meet the requirements of your Customer System.

- c. Timely apply any OS Updates necessary to maintain the quality and security of your Customer System.
- d. Ensure that any third party software that you may include in your Customer System is also updated as needed and/or when OS Updates are deployed to maintain the quality and security of your Customer System
- e. Ensure the Customer System meets the relevant standard of care for such devices; and
- f. Provide information to End Users about the proper use of the Customer System including information on how to safely operate the Customer System.

6. **Third Party AV Technologies**

The Software contains third party audio visual technologies that require these notices:

- a. The **H.264/AVC Visual Standard**, the **VC-1 Video Standard**, and the **MPEG-4 Visual Standard, MPEG LA, LLC** requires this notice:

This Product is licensed under the AVC, the VC-1 and the MPEG-4 Part 2 Visual patent portfolio licenses for the personal and non-commercial use of a consumer to (i) encode video in compliance with the above standards ("Video Standards") and/or (ii) decode AVC, VC-1 and MPEG-4 Part 2 Visual that was encoded by a consumer engaged in personal and non-commercial activity or was obtained from a video provider licensed to provide such video. None of the licenses extend to any other product regardless of whether such product is included with this product in a single article. No license is granted or will be implied for any other use. Additional information may be obtained from MPEG LA, LLC. See www.mpegla.com.

To the extent that non-Product software includes AV Technologies licensed by MPEG LA, LLC under a product category, such license agreement will determine any royalties due for AV Technologies included in non-Product software.

- b. **High Efficiency Video Coding / H.265 Codec.** The Software includes an implementation of the High Efficiency Video Coding (HEVC) / H.265 video compression standard. You agree that you are responsible for any licensing obligations related to HEVC/H.265.
- c. **MPEG-2 Transport Stream.** The Software supports processing of data in an MPEG-2 Transport Stream container. You agree that you are responsible for any licensing obligations related to the MPEG 2 Transport Stream.

- d. MPEG-2 Codec.** The Software includes MPEG-2 visual decoding and encoding technologies, which are disabled. You agree that you are responsible for any licensing obligations related to the MPEG-2 codec.
- e. Opus, VP9 Codec and Successors.** Starting with Software releases in 2016, the Software also includes Opus audio decoding and encoding technologies and VP9 (and successor) visual decoding and encoding technologies. You agree that you are responsible for any licensing obligations related to such technologies.

7. **Customer System Support**

You are solely responsible for End User support. You shall advise End Users to contact you for support.

8. **Privacy, Consent to Use of Data**

Some of the settings and features in the Software and the Runtime Image send or receive information to Microsoft when using those features. By accepting this agreement and exercising your rights in Section 2, you agree that Microsoft may collect, use and disclose the information as described in the Microsoft Privacy Statement available at (aka.ms/privacy).

9. **Reservation of Rights**

Except as expressly granted in this Agreement, Microsoft reserves all rights not expressly granted under this Agreement, and no other rights are granted under this Agreement by implication or estoppel or otherwise.

10. **Notice Regarding Software**

The Software is complex computer software. Performance of the Software will vary depending on hardware platform, software interactions, and Software configuration. The Software may have software bugs.

11. **Disclaimer of Warranty**

THE SOFTWARE, INCLUDING WINPE, IS PROVIDED TO YOU AS IS WITHOUT WARRANTY OF ANY KIND. THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOFTWARE AND RUNTIME IMAGE IS ASSUMED BY YOU AND YOUR END USER CUSTOMERS. MICROSOFT DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED

TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT, WITH RESPECT TO THE SOFTWARE.

12. **Limitation of Liability**

IN NO EVENT SHALL MICROSOFT (INCLUDING ITS DIRECTORS, OFFICERS AND AFFILIATES) BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR OTHER DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE, ARISING OUT OF THIS AGREEMENT OR THE USE OR INABILITY TO USE THE SOFTWARE OR RUNTIME IMAGE, EVEN IF MICROSOFT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. **Indemnification**

You shall, at your expense and Microsoft's request, indemnify, defend and hold harmless Microsoft, its affiliates and its suppliers from and against any claims or lawsuits, including attorney fees that arise or result from your use or distribution of the Software or Runtime Image, except to the extent that said claims are for intellectual property infringement related exclusively to the unmodified Software as developed by Microsoft.

14. **Term & Termination**

The term of this Agreement is 6 months from the date that you accept this Agreement.

Microsoft may terminate this Agreement immediately upon any breach of this Agreement that you fail to cure within thirty (30) days after receipt of written notice of breach. Upon termination of this Agreement, you must stop distributing any Customer Systems and your license rights under this Agreement shall end. EULAs validly granted for Customer Systems prior to the termination of this Agreement shall survive termination. Upon termination, you may not obtain any new commercial distribution licenses for Windows 10 IoT Core through the Windows 10 IoT Core Commercialization website found here: <https://www.windowsforiotdevices.com/> without written express permission by Microsoft.

15. **Survival**

Sections 7, 8, 9, 10, 11, 12, 13, 14, and 15 survive termination of this Agreement.

16. **Miscellaneous**

a. Governing Law and Venue; Attorney Fees

This Agreement shall be construed and controlled by the laws of the State of Washington and you consent to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, unless no federal subject matter jurisdiction exists, in which case you consent to exclusive jurisdiction and venue in the Superior Court of King County, Washington. You waive all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. In any action to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, and other expenses.

b. Independent Contractors

You and Microsoft are operating under this Agreement as independent contractors, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, a franchise or a joint venture between us.

c. Taxes

You shall pay, and be responsible for, any and all sales taxes, use taxes and any other taxes imposed by any jurisdiction as a result of (i) entering into this Agreement; (ii) the performance of any of the provisions of this Agreement; or (iii) the transfer of any property, right or any other grant hereunder.

d. Construction

If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect. Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

e. Export Restrictions

The Software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, End Users and end use. For additional information, see (aka.ms/exporting).