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AZURE STACK HCI + AKS PACKAGE WITH WINDOWS SERVER 2022

This is a license agreement for the combination of Azure Stack HCI + AKS Package with Windows Server 2022 Datacenter as a guest operating system (herein referred to collectively as the “software”), between you and the device manufacturer or software installer that distributes some of the software and this agreement with your device.

This agreement describes your rights and the conditions upon which you may use the software. You should review the entire agreement, including any supplemental license terms and any linked terms that apply to the software, because all of the terms are important and together constitute this agreement that applies to you. You can review linked terms by pasting the (aka.ms/) link into a browser window. The terms also apply to any updates, supplements, and Internet-based services. If you obtain updates or supplements directly from Microsoft, then Microsoft, and not the manufacturer or installer, licenses those updates or supplements to you.

By accepting this agreement or using the software, you agree to all of these terms. If you do not accept and comply with these terms, you may not use the software.

1. Azure Stack HCI.

- a. You may use Azure Stack HCI only (i) as installed on the device by the device manufacturer or installer; and (ii) as a host operating system to manage and service validly licensed virtual machines running validly licensed applications.
- b. You may use Azure Stack HCI as long as it is registered with your valid Azure subscription (which will not result in additional charges by Microsoft) and connected to your Azure subscription over the Internet at least once every thirty (30) consecutive calendar days.
- c. You may not (i) work around any mandatory registration or sign-up process or (ii) run any applications, operating system roles, and/or other workloads directly on Azure Stack HCI except for: (A) utilities and operating system roles and (B) virtualized machines running Azure Stack HCI; both (A) and (B) only as necessary to enable Azure Stack HCI to host, manage, and service validly licensed virtual machines running validly licensed applications.
- d. You will receive product updates for Azure Stack HCI per section 7(b) of this agreement.

2. **Azure Kubernetes Service on Azure Stack HCI.**

- a. You may use Azure Kubernetes Service on Azure Stack HCI only (i) on Azure Stack HCI as installed on the device and (ii) to host, manage, and service validly licensed containers running validly licensed applications, unless otherwise permitted by Microsoft.
- b. You may use Azure Kubernetes Service on Azure Stack HCI as long as it is registered with your valid Azure subscription (which will not result in additional charges by Microsoft).
- c. If Azure Kubernetes Service on Azure Stack HCI is not installed on your device by the device manufacturer or installer and is not installed automatically when setting up Azure Stack HCI, you may install it via the Azure portal. This agreement supersedes any license terms that may accompany Azure Kubernetes Service on Azure Stack HCI at the foregoing site.
- d. You will receive product updates to Azure Kubernetes Service per section 7(b) of this agreement.

3. **Windows Server 2022 Datacenter as a Guest Operating System.**

- a. You may use any number of instances of Windows Server 2022 Datacenter or Windows Server Azure Edition only as a guest operating system in virtual machines running on Azure Stack HCI as installed on your device.
- b. **Downgrade Rights.** For each permitted instance, you may create, store, and use an earlier version of Windows Server Datacenter for so long as Microsoft provides support for that earlier version as set forth in (aka.ms/windowslifecycle).
 - i. This agreement applies to your use of the earlier versions. If the earlier version includes different components not covered in this agreement, the terms that are associated with those components in the earlier version apply to your use of them. Neither the manufacturer nor installer, nor Microsoft, is obligated to supply earlier versions to you. At any time, you may replace an earlier version with this version of Windows Server 2022 Datacenter.
 - ii. You are not licensed for any successor version of Windows Server 2022 Datacenter under this agreement.

- c. Windows Server 2022 Datacenter is not installed on the device by the device manufacturer or installer and may be downloaded at <https://www.microsoft.com/en-us/evalcenter/>. This agreement supersedes any license terms that may accompany Windows Server 2022 Datacenter at the foregoing site.

4. License Restrictions.

- a. The software is licensed, not sold. The manufacturer or installer and Microsoft reserve all rights (such as rights under intellectual property laws) not expressly granted in this agreement, whether by implication, estoppel or otherwise, unless applicable law gives you more rights. You must comply with any technical limitations in the software that only allow you to use it in certain ways. For example, this license does not give you any right to, and you may not:
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 - publish, rent, lease, lend, or copy the software (other than the permitted backup copy);
 - reassign the license for the software to another physical hardware system;
 - separate the software for use in more than one operating system environment under a single license, unless expressly permitted. This applies even if the operating system environments are on the same physical hardware system;
 - use the software for commercial software hosting services; or
 - when using Internet-based features you may not use those features in any way that could interfere with anyone else's use of them, or to try to gain access to or use any service, data, account or network, in an unauthorized manner;
- b. Rights to access the software on any device do not give you any right to implement Microsoft patents or other Microsoft intellectual property in software or devices that access that device.

- c. Mixed-Node Use Prohibited.** Mixed-node scenarios means a situation that occurs when nodes that are sold with Azure Stack HCI + AKS Package with Windows Server 2022 are combined with nodes sold with Azure Stack HCI subscription in a cluster. Mixed-node scenarios are prohibited and will result in additional subscription charges to customers.
- 5. Included Microsoft Programs.** The software may contain other Microsoft applications. Unless otherwise specified, these license terms apply to your use of those Microsoft applications, if any, unless other license terms are provided with the other Microsoft applications.
- 6. Customer Support.** For the software generally, contact the device manufacturer or installer for support options. For updates and supplements obtained directly from Microsoft, Microsoft may provide limited support services for properly licensed software as described at (aka.ms/mssupport). Refer to the Microsoft lifecycle and configuration requirements to ensure your software is supported at (aka.ms/windowslifecycle).
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 - b. Third Party Management.** You may have a third party manage your device on which the software is installed at either your location or the third party's.
 - c. Updates.** The software periodically checks for system updates and may automatically download and install them for you. You may obtain updates only from Microsoft or authorized sources, and Microsoft may require you to update your device to provide you with those updates. By accepting this agreement, you agree to receive these types of automatic updates without any additional notice. Updates may not include all existing software features, services, or peripheral devices.
 - d. Backup Copy.** You may make copies of the software solely for backup purposes.

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- b. **Processing of Personal Data.** To the extent Microsoft is a processor or subprocessor of personal data in connection with the software, Microsoft makes the commitments described at <https://learn.microsoft.com/legal/gdpr>.
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- a. **Limited Warranty.** The device manufacturer or installer warrants that properly licensed software will perform substantially as described in any Microsoft materials that accompany the software. This limited warranty does not cover problems that you cause, that arise when you fail to follow instructions, or that are caused by events beyond the reasonable control of the device manufacturer or installer. The limited warranty starts when the first user acquires the software, and lasts for 90 days. If you obtain updates or supplements directly from Microsoft during the 90-day term of the device manufacturer's or installer's limited warranty, Microsoft provides the limited warranty for those updates or supplements. Any supplements, updates, or replacement software that you may receive during that 90-day period are also covered, but only for the remainder of that 90-day period, or for 30 days, whichever is longer.
- b. **Disclaimer.** Neither Microsoft, nor the device manufacturer or installer, gives any other express warranties, guarantees, or conditions. **Microsoft and the device manufacturer and installer exclude all implied warranties and conditions, including those of merchantability, fitness for a particular purpose, and non-infringement. If your local law does not allow the exclusion of implied warranties, then any implied warranties, guarantees, or conditions last only during the term of the limited warranty and are limited as much as your local law allows. If your local law requires a longer limited warranty term, despite this agreement, then that longer term will apply, but you can recover only the remedies this agreement allows.**
- c. **Limited Remedy.** If Microsoft, or the device manufacturer or installer, breaches its limited warranty, it will, at its election, either: (i) repair or replace the software at no charge, or (ii) accept return of the software (or at its election the device on which the software was preinstalled) for a refund of the amount paid, if any. The device manufacturer or installer may also repair or replace supplements, updates, and replacement of the software or provide a refund of the amount you paid for them, if any. **These are your only remedies for breach of warranty.** This limited warranty gives you specific legal rights, and you may also have other rights which vary from state to state or country to country.

- d. Damages.** Except for any repair, replacement, or refund that Microsoft, or the device manufacturer or installer, may provide, you may not under this limited warranty, under any other part of this agreement, or under any theory, recover any damages or other remedy, including lost profits or direct, consequential, special, indirect, or incidental damages. The damage exclusions and remedy limitations in this agreement apply even if repair, replacement, or a refund does not fully compensate you for any losses, if Microsoft, or the device manufacturer or installer, knew or should have known about the possibility of the damages, or if the remedy fails of its essential purpose. Some states and countries do not allow the exclusion or limitation of incidental, consequential, or other damages, so those limitations or exclusions may not apply to you. **If your local law allows you to recover damages from Microsoft, or the device manufacturer or installer, even though this agreement does not, you cannot recover more than you paid for the software (or up to \$50 USD if you acquired the software for no charge).**
 - e. Warranty and Refund Procedures.** For service or refund, you must provide a copy of your proof of purchase and comply with the device manufacturer's or installer's return policies. Software installed on a device may require return of the software with the entire device on which the software is installed. Contact the device manufacturer or installer at the address or toll-free telephone number provided with your device to find out how to obtain warranty service for the software.
- 11. Governing Law.** The laws of the state or country where you live (or if a business where your principal place of business is located) govern all claims and disputes concerning the software, its price, or this agreement, including breach of contract claims, unfair competition laws, implied warranty laws, for unjust enrichment, and in tort, regardless of conflict of law principles.
- 12. Regional Variations.** This agreement describes certain legal rights. You may have other rights, including consumer rights, under the laws of your state or country. You may also have rights with respect to the party from which you acquired the software. This agreement does not change those other rights if the laws of your state or country do not permit it to do so. For example, if you acquired the software in one of the below regions, or mandatory country law applies, then the following provisions apply to you:

 - a. Australia.** References to "Limited Warranty" are references to the express warranty provided by Microsoft or the manufacturer or installer. This warranty is given in addition to other rights and remedies you may have under law, including your rights and remedies in accordance with the statutory guarantees under the Australian Consumer Law.

In this section, "goods" refers to the software for which Microsoft or the manufacturer or installer provides the express warranty. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

b. Canada. You can choose to stop receiving Microsoft updates by turning off the automatic update feature or Internet access. Refer to the product documentation to learn how to turn off updates for your specific device or software.

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(i) **Warranty.** The properly licensed software will perform substantially as described in any Microsoft materials that accompany the software. However, the manufacturer or installer, and Microsoft, give no contractual guarantee in relation to the licensed software.

(ii) **Limitation of Liability.** In case of intentional conduct, gross negligence, claims based on the Product Liability Act, as well as, in case of death or personal or physical injury, the manufacturer or installer, or Microsoft is liable according to the statutory law.

Subject to the preceding sentence, the manufacturer or installer, or Microsoft will only be liable for slight negligence if the manufacturer or installer or Microsoft is in breach of such material contractual obligations, the fulfillment of which facilitate the due performance of this agreement, the breach of which would endanger the purpose of this agreement and the compliance with which a party may constantly trust in (so-called "cardinal obligations"). In other cases of slight negligence, the manufacturer or installer or Microsoft will not be liable for slight negligence.

d. Other regions. See (aka.ms/variations) for a current list of regional variations.

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