

Posit Chronicle End User License Agreement (EULA)
Posit Software, PBC
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This End User License Agreement (this "Agreement") is a legal agreement between you ("you") and Posit Software, PBC, a Delaware corporation with its principal place of business at 250 Northern Avenue, Suite 410, Boston, Massachusetts 02210 ("Posit") (formerly known as RStudio, PBC), that governs your use of Posit's proprietary software referred to as Chronicle. It is effective between you and Posit as of the date you first download, access or use Chronicle.

IMPORTANT - PLEASE READ CAREFULLY BEFORE YOU DOWNLOAD OR USE CHRONICLE

By clicking on the "agree" button or by downloading, accessing, executing or otherwise using Chronicle, you acknowledge that you have read this Agreement, understand it and agree to be bound by its terms and conditions. If you are not willing to be bound by the terms of this Agreement, do not access or use Chronicle. If you are using Chronicle in your capacity as employee or agent of a company or organization, then any references to "you" in this agreement shall refer to such entity and not to you in your personal capacity. You warrant that you are authorized to legally bind the company or organization on whose behalf you are accessing Chronicle. If you are not so authorized, then neither you nor your company or organization may use Chronicle in any manner whatsoever.

1. Definitions.

1. **"Chronicle"** means the object code version of the proprietary Posit software program referred to as Chronicle and any subsequent release of Chronicle provided to you by Posit along with any documentation for Chronicle provided or otherwise made available to you by Posit.
2. **"Posit Products"** means those Posit proprietary software products that you have separately licensed from Posit pursuant to a separate agreement with Posit.
3. **"Reports"** means the reports generated through the use of Chronicle which provide certain usage metrics and other statistical information with respect to the use of Posit Products.
4. **"Subscription Term"** means the period of time for which you have purchased a subscription to the Posit Products.
5. **"User"** means an individual who is authorized by you to use Chronicle for purposes of generating Reports.

2. License Grant.

2.1 **License Grant.** Subject to all terms and conditions set forth in this Agreement, Posit grants you a limited, worldwide, nonexclusive, royalty-free, fully paid-up license (without right of sublicense) during the Subscription Term to install and use Chronicle, and to permit your Users to use Chronicle, for the sole purposes of monitoring and reporting on the usage of Posit Products and subject to your use of Chronicle in accordance with any documentation for Chronicle provided or otherwise made available to you by Posit. Posit may request that you provide Posit with copies of Reports from time to time to ensure your compliance with the term of your agreements with Posit for the use of the Posit Products. Notwithstanding anything to the contrary herein, you may make a reasonable number of copies of Chronicle solely for purposes of backing up and archiving Chronicle and for purposes of monitoring and reporting on your usage of the Posit Products. All copies of Chronicle are subject to this Agreement and must contain the same titles, trademarks, and copyrights as the original. You are responsible for the compliance of your Users with the terms and conditions of this Agreement and for any breach of this Agreement by your Users. Delivery of Chronicle shall be made by electronic means and such delivery shall be deemed to have been made as of the date Posit first makes Chronicle available to you for download. Chronicle may be installed within a virtual (or otherwise emulated) hardware system so long as these virtual machines are run on hardware you own, lease or otherwise control (including for such purpose the hardware of a third-party hosting provider that hosts Chronicle for your benefit, such as Amazon Web Services). Notwithstanding anything to the contrary herein, Posit grants you the right to sublicense the right to install and use Chronicle to a third-party hosting provider for the sole purpose of enabling the third-party hosting provider to

host Chronicle on your behalf and for your exclusive benefit. You agree that you will be liable to Posit for any breach of this Agreement or unauthorized use of Chronicle by such third-party hosting provider.

2.2 Restrictions; Export Laws.

2.2.1 Restrictions. You shall not and shall not permit any third-party to: (a) use Chronicle in breach of this Agreement, (b) copy Chronicle (except for a reasonable number of backup and archival copies to the extent and as permitted in Section 2.1 above), (c) modify, adapt, transfer, distribute, make publicly available, resell, rent, lease, sublicense or loan Chronicle or create or prepare derivative works based upon Chronicle or any part thereof, (d) use Chronicle in a service bureau or application service provider environment, in a commercial time share arrangement, or for purposes of providing services to a third-party, (e) combine all or any part of Chronicle with other software or use all or any part of Chronicle to create a new product, application or service; (f) develop, resell, distribute or make available any service, software or device incorporating all or any part of Chronicle, (g) use Chronicle except on your own internal computer networks on devices that you own, lease or otherwise control (including for such purpose the hardware of a third-party hosting providers that hosts Chronicle for your benefit, such as Amazon Web Services), (h) use Chronicle in contravention of, or to violate, any applicable laws, rules, regulations or guidelines, (i) remove or alter any trademark, trade names, product names, logo, copyright or other proprietary notices, legends, symbols or labels from Chronicle, or (j) decompile, disassemble, reverse engineer or otherwise attempt to derive the source code of Chronicle or attempt to modify, alter, or circumvent the license control and protection mechanisms within Chronicle. If 2.4(j) is prohibited by applicable law, you shall provide Posit with a detailed prior written notice of any such intention to reverse engineer Chronicle and shall provide Posit with a right of first refusal to perform such work at rates equal to those proposed by a recognized third-party software services provider for such work.

2.2.2 Export. You may not export Chronicle into or use Chronicle in any country prohibited by the United States Export Administration Act and the regulations thereunder. You acknowledge that the release of software, technology, or data to a non-US person within the United States or elsewhere abroad is deemed to be an export to the non-U.S. person's home country or countries. You acknowledge that the export of Chronicle or use of Chronicle outside the US is subject to export controls and you agree that the Chronicle will not be exported or used (or re-exported from a country of installation), directly or indirectly, unless you obtain all necessary licenses from the U.S. Department of Commerce or other applicable agency or governmental body as required under applicable law or you qualify for exemptions or exceptions. You shall comply with the export laws and regulations of the United States and other applicable jurisdictions in using Chronicle, including without limitation the International Traffic in Arms Regulations (ITAR), 22 CFR 120 – 130, the Export Administration Regulations (EAR), 15 CFR 730 – 799, and the Foreign Assets Control Regulations (FACR), 31 CFR 500 – 599. Without limiting the foregoing, (i) you represent that neither you nor your Users are not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) you shall not use, and shall not permit your Users to access or use, the Chronicle in violation of any U.S. export embargo, prohibition or restriction. You acknowledge and agree that Chronicle is prohibited for export or re-export to Cuba, North Korea, Iran, Libya, Syria and Sudan or to any person or entity on the U.S. Department of Commerce Denied Persons List, Entity List, or Unverified List, U.S. State Department's Nonproliferation Sanctions List, or on the U.S. Department of Treasury's lists of Specially Designated Nationals, Specially Designated Narcotics Traffickers or Specially Designated Terrorists, as such is changed from time to time.

2.6 Open Source Software. You acknowledge that certain third-party software incorporated in Chronicle requires that Posit provide copyright notices and/or additional terms and conditions to you, which copyright notices and additional terms and conditions may be accessed by you at <https://www.rstudio.com/about/opensourcelicenses/> and are incorporated by reference into this Agreement. Use, reproduction and distribution of those components of Chronicle that are licensed under an open source software license are governed solely by the terms of that open source software license and not this Agreement.

3. Ownership; Feedback.

3.1 Ownership of Chronicle. Posit and its licensors retain ownership of all right, title, and interest in and to Chronicle, including all intellectual property rights therein and thereto, and Posit reserves all rights not specifically granted in this Agreement. If you acquired Chronicle outside the United States, then you agree and assent to the adherence to all applicable international treaties regarding intellectual property rights which shall also apply. You shall take all reasonable precautions to

prevent unauthorized or improper use or disclosure of Chronicle. Posit, Chronicle and other trademarks contained in Chronicle are trademarks or registered trademarks of Posit Software, PBC in the United States and/or other countries.

3.2 Feedback. You and you Users may, from time to time, voluntarily make known to Posit suggestions, enhancement requests, techniques, know-how, comments, feedback, or other input to Posit with respect to Chronicle (collectively, "Suggestions"). Unless otherwise agreed to in writing by the parties with respect to any Suggestion, Posit shall have a royalty-free, worldwide, irrevocable, perpetual license to use, disclose, reproduce, license, distribute, and exploit any Suggestion without restriction or obligation of any kind, on account of confidential information, intellectual property rights, or otherwise, and may incorporate into its services any service, product, technology, enhancement, documentation, or other development ("Improvement") incorporating or derived from any Suggestion with no obligation to license or to make available the Improvement to you or any other person or entity.

4. Disclaimer. CHRONICLE IS PROVIDED "AS IS" AND POSIT AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. POSIT DOES NOT REPRESENT OR WARRANT THAT CHRONICLE IS ERROR FREE OR THAT ALL ERRORS CAN BE CORRECTED. CHRONICLE IS NOT DESIGNED, INTENDED, OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, THE DESIGN, CONSTRUCTION, MAINTENANCE, OR OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS. POSIT SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES. No oral or written information or advice given by Posit, its resellers, dealers, distributors, agents, representatives or employees shall create any warranty. If applicable law requires any warranties other than the foregoing, all such warranties are limited in duration to ninety (90) days from the date of delivery. Some jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. The warranty provided herein gives you specific legal rights and you may also have other legal rights that vary from jurisdiction to jurisdiction. The limitations or exclusions of warranties, remedies or liability contained in this Agreement shall apply to you only to the extent such limitations or exclusions are permitted under the laws of the jurisdiction where you are located.

5. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, POSIT SHALL NOT BE LIABLE TO YOU OR YOUR USERS FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, COVER, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF GOODWILL, LOSS OF USE, LOSS OR CORRUPTION OF DATA, INABILITY TO ACCESS OR USE EQUIPMENT, SOFTWARE OR DATA, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, BUSINESS INTERRUPTION OR THE LIKE), ARISING OUT OF THIS AGREEMENT OR THE USE OF, OR INABILITY TO USE, CHRONICLE, OR BASED ON ANY THEORY OF LIABILITY INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF POSIT OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, POSIT'S TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT FOR ANY AND ALL CLAIMS WILL NOT EXCEED \$100. The Disclaimer set forth in Section 4 and Limitation of Liability set forth in this Section 5 are fundamental elements of the basis of the agreement between Posit and you. Posit and its suppliers would not be able to provide Chronicle on an economic basis without such limitations.

6. Term and Termination. This Agreement shall remain in full force and effect for the Subscription Term unless either party provides the other party with ten (10) days written notice of termination. Upon any termination of this Agreement, You and your Users shall immediately cease all use of Chronicle and certify in writing to Posit within thirty (30) days after termination that Chronicle and all copies thereof have been destroyed, purged, and/or returned to Posit. Sections 1, 3, 4, 5, 6, and 7 shall survive any expiration or termination of this Agreement.

7. General.

7.1 Governing Law; Jurisdiction. This Agreement shall be governed by the internal laws of the Commonwealth of Massachusetts, U.S.A., without giving effect to principles of conflict of laws. Each party hereby irrevocably consents to the exclusive jurisdiction and venue of the state courts sitting in the Commonwealth of Massachusetts or the federal courts in the Commonwealth of Massachusetts to resolve any disputes arising under this Agreement. In each case this Agreement

shall be construed and enforced without regard to the United Nations Convention on the International Sale of Goods and without regard to the Uniform Computer Information Transactions Act. **To the fullest extent permitted, each party waives the right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.**

7.2 Entire Agreement; Amendment; Assignment. This Agreement contains the complete agreement between the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings whether oral or written with respect to the subject matter hereof. For the avoidance of doubt, this Agreement does not supersede or replace any agreement between You and Posit for the Posit Products, which agreements shall remain in full force and effect in accordance with their terms. No Posit reseller, dealer or agent is authorized to make any amendment to this Agreement. Posit may update this Agreement from time to time and provide the updated version to you by email or with an update to Chronicle. By continuing to use Chronicle after receipt of the updated version of this Agreement, you are deemed to have agreed to the updated version. The parties agree that there are no third-party beneficiaries to this Agreement. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety, without consent of the other party to its successor in a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, stock, or business to which this Agreement relates. Subject to the foregoing, this Agreement inures to the benefit of and binds each party and their respective successors and permitted assigns.

7.3 Waiver; Severability. The failure or delay of a party to exercise any of its rights under this Agreement or upon any breach of this Agreement shall not be deemed a waiver of those rights or of the breach. A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach thereof. If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law that provision will be enforced to the maximum extent permissible and the remaining provisions of this Agreement will remain in full force and effect.

7.4 Notices. Notices must be in English, in writing, and will be deemed given upon receipt, after being sent to a party using a method that provides for positive confirmation of delivery to the physical address or email address on file with the other party, including without limitation through automated receipt or by electronic log.

7.5 U.S. Government Users. Chronicle and any accompanying documentation are "Commercial items," "Commercial computer software" and "Computer software documentation" as defined by the Federal Acquisition Regulations ("FAR") and Defense Federal Acquisition Regulations Supplement ("DFARS"). Pursuant to FAR 12.211, FAR 12.212, DFARS, 227.7202-1 through 227.7202-4, and their successors, the U.S. Government acquires Chronicle and its documentation subject to the terms of this Agreement.

7.6 Construction. The titles of the sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. Unless the context of this Agreement clearly requires otherwise: (i) references to the plural include the singular, the singular the plural, and the part the whole, (ii) "or" has the inclusive meaning frequently identified with the phrase "and/or," (iii) "including" has the inclusive meaning frequently identified with the phrase "including but not limited to" or "including without limitation," and (iv) references to "hereunder," "herein" or "hereof" relate to this Agreement as a whole. The parties agree that this Agreement shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against either party and that ambiguities shall not be interpreted against the drafting party.

