

Platform Terms

The following terms and conditions govern the use and distribution of the Platform and Platform-Enabled Products, in addition to the terms and conditions set forth in the Agreement. Resellers must agree to terms and conditions substantially similar to the following (“Platform Terms”) as a condition to their use of the Platform and Platform-Enabled Products (e.g. Acronis Backup Cloud). Capitalized terms used but not defined below shall have the meanings ascribed to them in the Agreement. For avoidance of doubt, these Platform Terms were previously referred to as Reseller Terms and Conditions.

1. USE OF THE PLATFORM.

- a. The Platform Network. The Platform is a multi-tiered console that allows Acronis to directly grant a distributor the right to set up an entire network which it manages (“Distributor”). The Distributor’s network includes one or more resellers and any downstream sub-resellers (collectively, “Resellers”), all of which access the Platform as part of the Distributor’s network. The Distributor and Resellers may sell access to the Platform-Enabled Product (but not the Platform) to the ultimate end users of the Platform-Enabled Product (“End Users”). Distributors and Resellers may sell access to the Platform to other downstream Resellers as part of their respective networks in accordance with Section 1(c) below.
- b. Scope of License. Acronis grants to you the right, within the Territory (defined below), to: (i) market and deliver the Platform-Enabled Product to End Users; and (ii) use the Platform to create user and sub-user accounts for the Platform-Enabled Product in connection with the distribution thereof.
- c. Platform Sublicense and White-Label Rights. In addition to reselling the Platform-Enabled Product to End Users, you may also appoint downstream Resellers and authorize them to use the Platform. Your downstream Resellers will have the rights set forth in Section 1(b) above, subject to their acceptance of the Platform Terms. You may also create and distribute a white-label version of the Platform-Enabled Product (“White-Label Version”) to be resold by your Resellers. All White-Label Versions must include the attribution “powered by Acronis” in the format and with included logos or graphics as set forth in Acronis’ trademarks and usage guidelines available at www.acronis.com/legal.html (which are subject to change from time to time in Acronis’ sole discretion).
- d. Platform Terms. You acknowledge and agree that any downstream Resellers to whom you authorize access to the Platform or Platform-Enabled Product (including White-Label Versions) must first agree to the Platform Terms as a condition to their use thereof. The Platform Terms apply to any updates or services for the Platform and/or Platform-Enabled Product provided by Acronis, unless other terms specifically cover those items.
- e. End-User Agreements. End Users who purchase Acronis-branded Platform-Enabled Products (*i.e.*, non-White-Label Versions) must agree to the end-user agreement available at www.acronis.com/legal.html as a condition to their use thereof. If you have created an authorized White-Label Version, you may use your own form end-user agreement, provided that such end-user agreement identifies Acronis as a third-party beneficiary and is at least as protective of Acronis’ rights as the form set forth at www.acronis.com/legal.html. For clarity, in no instance may End Users have access to the Platform.
- f. Reporting Use of Licenses. You are permitted to use only the provided log-in credentials for the Platform. Usage reporting will be automatically generated by the Platform and sent to your Distributor or upstream Reseller on a monthly basis (“Monthly Usage Report”).
- g. Relationship with Acronis. You will operate at your own expense and risk under your own name as a distributor or reseller (as applicable) of the Platform-Enabled Product. You will not act or communicate in any manner that may imply that you have the right to represent or act on behalf of Acronis. You will have the technical capability to suspend service and/or restrict platform access to any of your downstream Resellers or End Users. Your use of this capability is entirely at your own risk and Acronis will not be liable in any way for any claims arising from such suspension and/or Platform access restriction.
- h. Licensing Policy. The Platform Terms (and this Agreement) is subject to the terms of the Acronis Licensing Policy, which can be found at www.acronis.com/legal/licensing.htm.

- i. Product Support. Acronis is not responsible for direct support to Resellers. Distributor will provide direct support to Resellers. Distributor will only support Platform-Enabled Product installations that are no older than two (2) prior released versions. Resellers must update to the most up-to-date version of the Platform-Enabled Product within six (6) months of its release.

2. MARKETING AND BRANDING.

- a. Branding. Acronis authorizes you the limited use of Acronis trademarks in association with marketing the Platform-Enabled Products within the Territory in accordance with the trademarks and usage guideline found at <http://www.acronis.com/legal.html>.
- b. Ownership of trademarks. Acronis reserves the right in its trademarks in all countries worldwide (whether or not within the Territory). A list of Acronis trademarks (“Acronis Marks”) can be found at <http://www.acronis.com/legal.html>.
- c. Press Releases. All press releases, advertisements, or publications involving, including, or referencing the Platform-Enabled Product or Acronis must be approved by Acronis prior to release, publication, or distribution.

3. SOFTWARE DELIVERY, REPORTING & PAYMENTS.

- a. Orders and Delivery. All orders will be processed and delivered through your upstream Distributor or Reseller that grants you Platform access or from which you purchase the Platform-Enabled Product. For avoidance of doubt, Acronis will not be a party to these transactions. Such selling entity will deliver an account activation link to you for the Platform.
- b. Books and Records. You shall keep complete, accurate, and current books and records relating to the supply and distribution of Platform-Enabled Product. During the term of this Agreement and for three (3) years thereafter Acronis or its authorized representatives may, upon ten (10) working days' prior written notice, inspect and make copies of such books and records, should Acronis (i) have reason to believe that you are not complying or have not complied with your obligations and (ii) Acronis has stated its concerns in writing to you and has given you not less than five (5) working days in which to respond to such concerns. Inspection shall take place during normal business hours at Acronis' cost, unless such inspection shows that you have not complied with your obligations hereunder, in which case you shall bear the costs of such inspection.

4. SUSPENSION.

- a. Right to Suspend. Acronis shall be entitled to suspend the Platform-Enabled Product, in whole or in part, immediately after notifying you in writing for any of the following reasons:
 - i. in order to comply with any contractual, statutory, or regulatory obligation, a request or order from law enforcement or a competent judicial, governmental, supervisory, or regulatory body;
 - ii. if Acronis has reasonable grounds to suspect that you or someone within your downstream network has acted or will act fraudulently, unlawfully, in a criminal way or in a way which could prejudice Acronis or any third party (including without limitation Distributors, Resellers, or End Users);
 - iii. in you or someone within your downstream network has violated any contractual, legal, regulatory, statutory or administrative obligation;
 - iv. in case of Force Majeure;
 - v. if you have not paid any due invoice or amounts;
 - vi. if Platform-Enabled Product or Platform access credentials have been compromised;
 - vii. if Acronis has a reasonable belief that (a) you or someone within your downstream network impairs or endangers the operational availability of Acronis' data networks, infrastructure, or API; (b) such action is necessary to

prevent or protect against fraud, tricks, tampering, schemes, false or invalid numbers, false credit devices, electronic devices, or any other fraudulent means or devices; or (c) such action is necessary to protect Acronis, Acronis' affiliates and their respective officers, directors, shareholders, employees and agents, and/or others against actual or potential adverse financial effects;

viii. if you fail or refuse to provide information, or provide false information, regarding your creditworthiness, past or current use of the Platform-Enabled Product, or characteristics pertaining to your use or planned use of the Platform-Enabled Product; or

ix. where necessary for the maintenance of the Platform, Platform-Enabled Product, or Acronis' data network or infrastructure. If such maintenance is reasonably foreseeable, you will be informed in advance by email or by any means Acronis will deem appropriate.

b. Notice. Acronis is not responsible to notify you or any other party regarding suspension and shall not bear the liability of any default or delay in providing (or not providing) notice of suspension.

c. Suspension Length. Acronis shall use all reasonable efforts to limit the suspension period in cases where you are not responsible for said suspension.

d. Disclaimer. In case of suspension for any of the causes mentioned above, Acronis shall not be held liable for any loss or damage arising from or related to said suspension.

5. CONFIDENTIALITY AND DATA PROTECTION.

a. User Data. Acronis hereby acknowledges that it acquires no ownership right, title, or interest to any and all of your or other users of the Platform-Enabled Product's data ("User Data"). User Data is subject to Acronis's normal access and security procedures and privacy policy, found at <http://www.acronis.com/en-us/company/privacy.html>. Any Acronis employee or subcontractor that accesses User Data pursuant to this Section 5(a) shall be bound by a confidentiality agreement. Without a user's consent (which it may withhold in its sole discretion), User Data may not be (a) used by Acronis other than as permitted hereunder, or (b) sold, assigned, or leased by Acronis (on an individualized, non-anonymized basis). Acronis will have the right to monitor and analyze your use of the Platform-Enabled Product and Platform and to use the results of such monitoring to improve the Platform-Enabled Product and Platform during and after the term of this Agreement. YOU ACKNOWLEDGE THAT ACRONIS, IN PROVIDING PRODUCTS AND SERVICES (INCLUDING THE PLATFORM) TO YOU, MAY USE SERVERS OR OTHER EQUIPMENT LOCATED IN COUNTRIES WHERE LAW ENFORCEMENTS, COURTS, OR OTHER FEDERAL AGENCIES MAY COMPEL ACRONIS TO PROVIDE ACCESS TO YOUR DATA IN CONNECTION WITH THEIR INVESTIGATIONS, AND THAT ACRONIS WILL COMPLY WITH ANY SUBPOENA, WARRANT, OR REGULATION THAT REQUIRES DISCLOSURE OF OR PROVIDING ACCESS TO USER DATA.

b. Confidential Information. The Platform-Enabled Product and Platform contain trade secrets of Acronis and are proprietary to Acronis. You agree to maintain the Platform-Enabled Product and Platform in confidence and prevent disclosure of the Platform-Enabled Product and Platform using at least the same degree of care you use for your own most critical proprietary information, but in no event less than a reasonable degree of care. You shall not disclose or provide access to the Platform-Enabled Product and Platform or any part thereof to anyone for any purpose, other than to employees or other authorized parties for the purpose of exercising the rights expressly granted hereunder.

6. PROPRIETARY RIGHTS.

a. Acronis's Ownership. The Platform-Enabled Product is licensed and not sold, notwithstanding any references herein to "sale" or "sold." The Platform-Enabled Product is and will remain the sole and exclusive property of Acronis and its suppliers, whether the Platform-Enabled Product is licensed separately or combined with any other products. Acronis' rights under this subsection include all intellectual property rights (including patents, copyrights, trademarks and all other intellectual property rights through the world) in: (i) all copies of the Platform and Platform-Enabled Product, and any portion thereof; and (ii) all modifications to, and derivative works based upon, the foregoing, however made.

- b. User Data. You hereby grant Acronis a non-exclusive, transferable license to use your data as necessary to provide you with the Platform-Enabled Product and Platform. You agree that you will ensure that any Reseller or End User in your network will grant Acronis a non-exclusive, transferable license to use such party's data as necessary to provide such party with the Platform-Enabled Product and Platform as a condition of such party's use thereof, and you hereby represent and warrant that such license has been granted to Acronis before such party's data is used with the Platform-Enabled Product or Platform. You represent and warrant that: (i) you have obtained, and will obtain, all consents and approvals necessary to provide your data to Acronis, and for Acronis to use such data with the Platform-Enabled Product and Platform as provided herein; and (ii) you have all rights necessary to grant the foregoing license.
- c. Restrictions. You shall not market, distribute, sublicense, transfer, sell, or make available to third parties the Platform-Enabled Product or Platform other than as expressly permitted under this Agreement. You shall not induce or contribute to any tort or breach of contract by any End User or Reseller with respect to Acronis, including breach of an end-user agreement applicable to the Platform-Enabled Product or Platform. You shall not (and shall not permit others to): (a) incorporate any of the Platform-Enabled Product or Platform, or any portion thereof, into any other work; (b) modify or create derivative works of the Platform-Enabled Product or Platform in any manner; (c) decompile, disassemble, reverse engineer or otherwise reduce to human perceivable form any portion of the Platform-Enabled Product or Platform; (d) engage in any act to disrupt the security, integrity, or operation of the Platform-Enabled Product or Platform, including without limitation through the use of viruses, worms, Trojan horses, or any other malicious code, scripts, or programs; (f) engage in any act or incorporate any code into the Platform-Enabled Product or Platform that would subject the Product in whole or in part to any term of an "open-source" or other license that requires as a condition of use, modification or distribution of software subject to it that such software, or other software combined and/or distributed with such software, be: (i) disclosed or distributed in source code form, (ii) licensed for the purpose of making derivative works, or (iii) redistributable at no charge; or (g) remove, delete, modify, or obscure any copyright or proprietary rights notice on the Platform-Enabled Product or Platform, or present the Platform-Enabled Product or Platform in a manner that suggests that a party other than Acronis is the originator of the Products, except as permitted under Section 1(c)(iii) (*White-Label License*). Before you exercise any of the foregoing actions that Distributor believes it is legally entitled to undertake notwithstanding the prohibitions of this Section 6(c), based on mandatory law, you shall: (i) provide Acronis with thirty (30) days' prior written notice or, if applicable law or the relevant court order does not allow for thirty (30) days' notice, the maximum amount of notice allowable, and (ii) provide all reasonably requested information to allow Acronis to assess your claim and, at Acronis' sole discretion, to provide alternatives that reduce any adverse impact on Acronis' intellectual property or other rights.
- d. Acronis Trademarks. You shall not have or obtain any right, title or interest in and to Acronis' Marks, which shall remain the sole and exclusive property of Acronis, its affiliates or their licensors, except the limited rights granted to you under Section 2 (*Marketing and Branding*). You shall not take any action that would in any way infringe or interfere with Acronis' rights in Acronis Marks. You shall not at any time adopt or register any name, internet domain, designation or mark that is confusingly or deceptively similar to any Acronis Mark, and you hereby agree to assign to Acronis any of the foregoing if, in Acronis' reasonable determination, it is confusingly or deceptively similar to any Acronis Mark. You agree not to contest Acronis' rights to or ownership of the Acronis Marks anywhere in the world. Acronis reserves the right to revoke your right to use the Acronis Marks at any time in Acronis' sole discretion.
- e. Third-Party Infringement. You agree to use reasonable efforts to protect Acronis' intellectual property rights and will report promptly to Acronis any infringement of such rights of which you are presently aware or become aware. Acronis reserves the sole and exclusive right at its discretion to assert claims against third parties for infringement or misappropriation of its intellectual property rights in the Platform-Enabled Product and Platform.

7. WARRANTY.

- a. Power and Authority. Each party represents and warrants that it has sufficient right and authority to grant to the other party all licenses and rights granted hereunder.
- b. Disclaimer of Other Warranties. EXCEPT FOR THE WARRANTY PROVIDED IN SECTION 7(A), TO THE EXTENT PERMITTED BY LAW, THE PLATFORM-ENABLED PRODUCT, THE PLATFORM, THEIR ACCOMPANYING DOCUMENTATION AND ALL OTHER MATERIALS PROVIDED BY ACRONIS ARE PROVIDED "**AS-IS**". TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, THE WARRANTIES IN SECTION 7(A) ARE THE SOLE AND EXCLUSIVE WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, MADE

BY ACRONIS IN CONNECTION WITH THE PLATFORM-ENABLED PRODUCT AND THE PLATFORM, AND ACRONIS SPECIFICALLY DISCLAIMS ALL STATUTORY OR OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ACRONIS SPECIFICALLY DOES NOT WARRANT THAT THE PLATFORM-ENABLED PRODUCT OR PLATFORM WILL MEET YOUR REQUIREMENTS OR THOSE OF YOUR DOWNSTREAM RESELLERS OR END USERS, OR THAT PLATFORM-ENABLED PRODUCT OR PLATFORM WILL BE ACCURATE OR ERROR-FREE, OR THAT ANY ERRORS WILL BE CORRECTED. ACRONIS DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING LOSS OF USE OR LOSS OF DATA, AND ALL USER DATA IS USED WITH THE PRODUCTS AT THE USER'S SOLE RISK. TO THE EXTENT THAT ACRONIS MAY NOT DISCLAIM ANY WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ACRONIS OR ANY OTHER PARTY SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY.

8. INDEMNITIES.

- a. **Indemnification.** You agree to indemnify, defend, and hold harmless Acronis and its affiliates and their respective officers, directors, shareholders, employees and agents (for purposes of this Section 8(a), collectively, "Acronis") from and against any and all third-party claims, losses, costs, and damages (including reasonable attorney costs) arising out of or in connection with (i) the gross negligence or willful misconduct of you and/or your employees, (ii) any misrepresentation made by you to any of your downstream Resellers and/or End Users or any other third party with respect to the Platform-Enabled Product or Platform, and (iii) any claims by your downstream Resellers and/or End Users for special, incidental, consequential, direct or indirect damages arising out of or in connection with use of the Platform-Enabled Product and/or Platform, including, but not limited to claims arising or based on damages to such claimants' hardware, media, software, loss, destruction or corruption of data, loss of revenue, or loss of profits.
- b. **Exceptions.** If Acronis seeks indemnification from you under this Section 8, Acronis will: (i) notify you of a claim or loss for which indemnification is sought promptly; (ii) give you sole control of the claim's defense and settlement; and (iii) provide you with reasonable assistance (at your sole expense) in the claim's defense and settlement.

9. LIMITATIONS OF LIABILITY.

- a. **Exclusion of Damages.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR LOST DATA), WHETHER BASED ON BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE TOTAL CUMULATIVE LIABILITY OF ACRONIS IN CONNECTION WITH THIS AGREEMENT AND THE PLATFORM AND PLATFORM-ENABLED PRODUCT, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF LICENSE FEES THAT YOU HAVE PAID UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE EVENT WHICH GAVE RISE TO THE CLAIM. THE EXISTENCE OF MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMIT. THE PARTIES ACKNOWLEDGE THAT THE LICENSE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT ACRONIS WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. THE FOREGOING DOES NOT APPLY TO BREACHES OF SECTION 5(B) (*CONFIDENTIAL INFORMATION*) AND/OR SECTION 8 (*INDEMNITIES*). THE PARTIES HAVE AGREED THAT THE LIMITATIONS SPECIFIED IN THIS SECTION WILL SURVIVE TERMINATION OF THIS AGREEMENT FOR ANY REASON AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

10. ACCEPTABLE USE AND CONDUCT.

- a. **Lawful Use.** By registering for, and by using or enabling another to use the Platform-Enabled Product and Platform, you represent and warrant that you have the legal capacity and authority to enter into this legally binding Agreement and to adhere to the terms and conditions herein, and that you will use the Platform-Enabled Product and Platform only in accordance with the license granted herein and with all applicable laws. If an individual is registering or using the Platform-Enabled Product and Platform on behalf of an entity or organization, that individual warrants, represents, and covenants to Acronis that such individual is duly authorized to legally bind and agree to the terms and conditions of this Agreement on behalf of such entity or organization. The Platform-Enabled Product and Platform are intended, and offered, only for lawful use by individuals or organizations with the legal capacity and authority under applicable law

to enter into a contract for such products and services. Acronis does not offer the Platform-Enabled Product and Platform to minors or where prohibited by law.

- b. Export Limitations. You acknowledge and agree that the Platform-Enabled Product and Platform may be subject to export controls in the United States and other countries. You agree to comply with all United States export laws and regulations and with all export or import regulations of other countries, and you 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 Platform-Enabled Product and Platform or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals, or other governmental list of debarred parties; (c) 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 (d) for any purpose prohibited by applicable law including, without limitation, nuclear, chemical, or biological weapons proliferation, or to create, store, backup, distribute, or provide access to child pornography or any other illegal content or data. You assume sole responsibility for any required export approval and/or licenses and all related costs and for the violation of any United States export law or regulation.