



Veritas Appliance Services – Terms and Conditions

Thank You for Your purchase of Veritas Appliance services (“Services”). The terms “You”, “Your” or “Customer” refer to the Services recipient/contract owner and the term “Veritas” refers to Veritas Technologies LLC and/or its subsidiaries. You and Veritas may each also be referred to as a “Party” and together, the “Parties.” This document (“Certificate”) is a legal agreement by and between You and Veritas. Services are for Veritas appliances which Customer has lawfully purchased (“Appliance”). This Certificate applies to the products and/or services identified on the front of this Certificate (or if not on the face of this Certificate then in the entitlement details page of Your Veritas Licensing Portal account).

The Services are performed pursuant to the Agreement. The “Agreement” means, collectively and in the following order of precedence: (i) the service terms and service description applicable to such Services, as published at: <https://www.veritas.com/about/legal/license-agreements> (or successor address) (“Service Description”) in effect upon the date Veritas accepts an order for the Services purchased and (ii) this Certificate (including all pages hereof). The Service Description is incorporated herein by reference. By accessing and using the Services, You indicate Your consent and agreement to the terms of the Agreement, and You ratify such consent and agreement in each instance of ongoing access and use of the Services.

1. SERVICES; ACCEPTANCE. Veritas will deliver the Services in accordance with the corresponding Service Description. Any Services not specifically set forth in the Service Description are considered out of scope. Veritas reserves the right and You consent to Veritas’ use of subcontractors to perform the Services. Unless otherwise provided in the Service Description, upon completion of the Services, You will have five (5) business days in which to notify Veritas in writing if the Services fail to comply with the applicable Service Description. If Veritas is not notified of any problems within such period, the Services will be deemed accepted by You.

2. SCHEDULING SERVICES: Services shall be scheduled by You and Veritas at a mutually agreed upon time following Veritas’ acceptance of an order for the Services purchased. You acknowledge and agree that Services will only be performed for currently supported versions of the Appliance. Unless otherwise agreed upon in writing by Veritas, the Services will expire if not used and delivered within ninety (90) days of the Issue Date. No credit or refund shall be due to You for expired Services.

3. INVOICE; PAYMENT; TAXES; CANCELLATION; TERMINATION; REFUND. This Section 3 applies only if You have purchased Services directly from Veritas. Veritas shall invoice You for Services following Veritas’ acceptance of an order for the Services purchased. You will pay Veritas the invoiced amounts within thirty (30) days of the invoice date (“Due Date”), or as otherwise agreed upon in writing. If any sum payable to Veritas is not paid by the Due Date, Veritas reserves the right, without prejudice to any other remedy to: (a) charge interest on such overdue sum on a day to day basis from the due date until paid in full at the rate of one percent (1%) per month; and/or (b) suspend the provision of the Services until such time as full payment is received. Payment for Services hereunder is not contingent upon the delivery or performance of any Veritas software licenses. You acknowledge and agree that all payment obligations pursuant to the Services are non-cancellable and any amount, when paid, shall be non-refundable. You will also be responsible for all taxes arising from the Services, except for taxes imposed on Veritas’ income or arising from the employment relationship between Veritas and its personnel. Veritas may terminate the Agreement at any time after the Issue Date if You fail to perform or observe any condition of the Agreement, including, without limitation the obligations and/or responsibilities set forth in Section 4 below.

4. CUSTOMER RESPONSIBILITIES. Veritas will be entitled to charge for additional time and/or idle time required to complete the Services arising as a result Your failure to meet Your obligations and/or responsibilities and/or may revise any scheduled date for completion of any part of the Services and/or suspend the Services. In addition to any of Your obligations and/or responsibilities specified in the Service Description and if you have purchased Services that require Veritas access to Your computers and/or systems, You must: a) back up all data on Your computers and/or systems. Veritas is not responsible for any loss of or damage to data whatsoever as a result of the Services; b) allow Veritas on-site access to Your computers, systems and facilities to perform the Services; c) meet all technical requirements for the installation of all parts of the Appliance, including operating system, service packs and hot-fixes; and d) designate a project lead for instruction and communications from Veritas.

5. CUSTOMER ENTITY DATA PROTECTION. You may be required to supply certain business information which is necessary for Veritas to provide the Services and which may contain personally identifiable information (“Personal Information”), including but not limited to, names, VAT numbers, Customer registration numbers, e-mail address, IP address and contact details of designated users and contacts for the Services, and, if applicable, Personal Information provided during configuration of the Services or any subsequent service call (“Provisioning Data”). You acknowledge that You are the controller of such Provisioning Data, and agree to take all necessary measures to ensure that You and Your users, are aware that their Personal Information may be processed as part of the Services and that they have given their consent to such processing as well as complied with their responsibilities as data controller or data subjects, as applicable, in accordance with applicable laws and/or regulations. By providing Personal Information, You consent, for Yourself, Your users and contacts, to the following: Personal Information will be processed and accessible on a global basis by Veritas, its affiliates, agents and subcontractors for the purposes of providing the Services, to generate

statistical information about the Services, for internal research and development, and as otherwise described in the Agreement, including in countries that may have less protective data protection laws than the country in which You or Your users are located. Veritas may disclose the collected Personal Information as required or permitted by law or in response to a subpoena or other legal process. You understand and agree that Veritas performs the Services on Your behalf and that Veritas will only process the Personal Information You provided in Provisioning Data in accordance with Your instructions, provided that such instructions are not incompatible with the terms of the Agreement. Veritas will also take appropriate technical and organizational measures to protect Personal Information against accidental loss or destruction of, or damage to, that Personal Information. Contact the following for any questions or to access Your Personal Information: Veritas Technologies LLC – Privacy Program Office, 500 East Middlefield Road, Mountain View, CA 94043, U.S.A. Email: privacy@veritas.com.

6. CONFIDENTIALITY. To the extent that confidential and proprietary information (“Confidential Information”) is received in connection with the Services, each Party agrees not to use the other Party’s Confidential Information except in the performance of, or as authorized by, the Agreement, and not to disclose, sell, license, distribute, or otherwise make available such information to third parties. Use by third party contractors is permitted so long as such third party contractors have a need to know and are required to maintain the confidentiality of such information as required by the Agreement. Confidential Information does not include information that: (i) is public knowledge, (ii) is already known by the receiving Party at the time of disclosure, (iii) subsequently becomes public knowledge other than by breach of the Agreement, (iv) subsequently comes lawfully into the possession of the receiving Party from a third party, or (v) is requested by a law enforcement official or is responsive to a subpoena or other legal process, such that disclosure of such information is required or permitted by law.

7. WARRANTY. Veritas will provide the Services in a good and workmanlike manner and substantially in accordance with the Service Description. **YOU AGREE THAT THE REMEDIES, EXPRESS OBLIGATIONS AND WARRANTIES SET FORTH IN THE AGREEMENT ARE EXCLUSIVE AND IN LIEU OF AND TO THE EXCLUSION (TO THE FULLEST EXTENT PERMITTED BY LAW) OF ANY OTHER REMEDY, WARRANTY, CONDITION, TERM, UNDERTAKING OR REPRESENTATION, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, RELATING TO ANYTHING SUPPLIED OR SERVICES PROVIDED UNDER OR IN CONNECTION WITH THE AGREEMENT INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY, CONDITION, TERM, UNDERTAKING OR REPRESENTATION AS TO THE CONDITION, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE SERVICES OR ANY PART OF THEM. VERITAS DOES NOT WARRANT THAT THE SERVICE(S) SHALL MEET YOUR REQUIREMENTS OR THAT USE OF THE SERVICE(S) SHALL BE UNINTERRUPTED OR ERROR FREE.**

8. INTELLECTUAL PROPERTY RIGHTS. Veritas retains all title, copyright, and other proprietary rights in the Services, and any improvements, enhancements, modifications, and derivative works thereof, including without limitation all patent, copyright, trade secret and trademark rights. Your rights to use the Services shall be limited to those expressly granted in the Agreement. All rights not expressly granted to You are retained by Veritas.

9. INTELLECTUAL PROPERTY INDEMNITY. In the event of an allegation that the Services (or a portion thereof) infringe any third party rights (“Affected Services”), Veritas will defend, indemnify and hold You harmless against any third party claim that the Affected Services infringe, and shall pay any awards You are required by a court or in settlement to pay, provided always that You promptly notify Veritas of any such claim in writing, give Veritas sole control of any such action or proceedings and such assistance as it may reasonably require to settle and/or defend such action or proceedings (at Veritas’ reasonable expense). Any award of costs, expenses and/or damages shall belong to Veritas. If You are enjoined from using the Affected Services, or if Veritas believes that any of the Affected Services are likely to become the subject of an infringement claim, Veritas shall, at its option: (i) procure for You the right to continue to use the Affected Services; (ii) make the Affected Services available without infringing so far as Veritas is aware of any third party intellectual property rights; or (iii) terminate the Agreement upon written notice to You provided, however, that Veritas shall remit to You a pro rata refund of prepaid fees for the Affected Services terminated hereunder. This indemnity shall not apply to any infringement resulting from: (i) use of the Services which does not comply with the uses permitted under the Agreement; (ii) any modification or change to the Services carried out by Veritas according to Your specifications; or (iii) the combination of the Services with any third party product and/or service or modification undertaken by You without the prior written consent of Veritas.

10. DISCLAIMER OF DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS ITS ESSENTIAL PURPOSE, IN NO EVENT SHALL VERITAS OR ITS SUPPLIERS BE LIABLE, WHETHER IN CONTRACT, TORT OR OTHERWISE TO YOU OR ANY PERSON FOR: I) COSTS OF PROCUREMENT OF SUBSTITUTE OR REPLACEMENT GOODS OR SERVICES, LOST BUSINESS PROFITS OR REVENUE OR LOST OR CORRUPTED DATA, LOSS OF PRODUCTION, LOSS OF CONTRACTS, LOSS OF GOODWILL OR ANTICIPATED SAVINGS OR WASTED MANAGEMENT AND STAFF TIME; OR II) ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSSES, EXPENSES OR COSTS OF ANY KIND; EVEN IF ADVISED OF THE POSSIBILITY AND WHETHER ARISING DIRECTLY OR INDIRECTLY OUT OF THE AGREEMENT OR USE OF THE SERVICES OR THE PERFORMANCE, DEFECTIVE PERFORMANCE, NON-PERFORMANCE OR DELAYED PERFORMANCE BY VERITAS OF ANY OF ITS OBLIGATIONS UNDER OR IN CONNECTION WITH THE AGREEMENT. IN NO CASE

SHALL VERITAS' LIABILITY EXCEED THE PURCHASE PRICE FOR THE SERVICES. NOTHING IN THE AGREEMENT SHALL EXCLUDE OR LIMIT VERITAS' LIABILITY FOR ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED BY LAW (INCLUDING, BUT NOT LIMITED TO, VERITAS' LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR ANY FRAUD OR FRAUDULENT MISREPRESENTATIONS MADE BY VERITAS ON WHICH YOU CAN BE SHOWN TO HAVE RELIED).

11. FORCE MAJEURE. Veritas shall not be responsible for its' inability to perform Services due to causes beyond its reasonable control, including without limitation environmental, operational, connectivity or other technical influences outside of Veritas' control and any circumstance commonly known as "force majeure", each such occurrence, a "Force Majeure Event." A "Force Majeure Event" shall include but not be limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, failure to obtain export licenses or shortages of transportation, facilities, fuel, energy, labor or materials.

12. GOVERNING LAW. If You are located in North America or Latin America, the Agreement will be governed by the laws of the State of California, United States of America. If You are located in China, the Agreement will be governed by the laws of the Peoples Republic of China. Otherwise, the Agreement will be governed by the laws of England. Such governing laws are exclusive of any provisions of the United Nations Convention on Contracts for Sale of Goods, including any amendments thereto, and without regard to principles of conflicts of law.

13. MISCELLANEOUS. (i) Veritas is an independent contractor and will not be deemed Your employee or agent. (ii) The Agreement contains the complete agreement between the Parties relating to the Services and supersedes any previous or contemporaneous agreement, proposal, commitment, representation, or other communication, whether oral or written. The Agreement prevails over any conflicting or additional terms of any purchase order, ordering document, acknowledgement or confirmation or other document issued by You, even if signed and returned. (iii) Notwithstanding the expiration or termination of the Agreement or any extension or renewal period, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such expiration or earlier termination will survive. (iv) No amendment or variation of the Agreement shall be effective unless in writing and signed by a duly authorized representative of each of the Parties to it, except as otherwise stated herein. (v) You may not transfer or assign the Agreement and/or the Services, including by operation of law or merger and acquisition, without Veritas' prior written consent which shall not be unreasonably withheld. Veritas may assign, sub-contract or sub-let the Agreement and/or the Services or any part thereof. (vi) The failure of a Party to exercise or enforce any right under the Agreement shall not be deemed a waiver of that right nor operate to bar the exercise or enforcement of it at any time thereafter. (vii) If any provision of the Agreement becomes invalid, illegal or unenforceable then such provision shall be severed and the remainder of the Agreement shall continue in full force and effect. (viii) All notices will be in writing and addressed to the receiving Party's current business contact, if known and sent to the receiving Party's address as listed in the Agreement, or as updated by either Party in writing. Notices shall be effective upon receipt and shall be deemed received as follows: (a) if personally delivered by email or courier, when delivered, or (b) if mailed by first class mail, or the local equivalent, on the third (3rd) business day after posting. (ix) You acknowledge that the Services, including documentation and other technical data, are subject to export controls imposed by the U.S.A. and to export controls as may be imposed by the government or governmental agency within the territory where the Services are rendered. You agree to comply with applicable laws including export and import and use restrictions, including the U.S. DOC, Export Administration Regulations (see <http://www.bis.doc.gov/>). Accordingly, You will not export or re-export (directly or indirectly) the Services or other technical data without complying with such export and import and use restrictions, including the U.S. DOC, Export Administration Regulations. (x) Except for a subsidiary or affiliate of Veritas, no person other than a Party to the Agreement shall be entitled to enforce any term of it except as expressly provided save that where an agreement is entered into pursuant to which any rights and/or obligations contained in the Agreement are permissibly assigned or novated to a third party, nothing in this Section shall, of itself, operate to prevent the assignee from taking the benefit of, and enforcing, any rights so assigned.