Managed Services – Posted Terms

November 2017

1. Services. Veritas agrees to provide the services ("Services") specified in the applicable quote form, work order, work authorization form, services order form, certificate or other managed services ordering document ("SOF") that references these posted terms, subject to these terms and conditions ("Posted Terms"). The "Agreement" shall mean collectively, the SOF, the service description applicable to such Services as published at http://go.veritas.com/managedserviceterns or successor address ("Service Description"), and these Posted Terms, in that order of precedence. Capitalized terms not defined in these Posted Terms shall have the meanings given in the Service Description or SOF. Subject to applicable law, Veritas reserves the right to provide the Services from anywhere in the world. Customer's access to the Services from certain countries may be subject to applicable law and any technical limitations of the Services. In order to enable Veritas to setup and provide the Services, Customer will provide Veritas with all necessary technical data, and other current, accurate and complete information reasonably required by Veritas for such purposes. Services may have service-specific requirements, such as setup information, ordering requirements, minimum commitments, overages or service level agreements, and these requirements can be found in the applicable Service Description for such Services.

2. Term; Termination. The Term for any Services provided under this Agreement, which may include an initial set-up period, will be as set forth in the applicable SOF, and may be subject to automatic renewal as further described in the SOF or Service Description.

3. Warranty. Veritas will provide the Services in a good and workmanlike manner and substantially in accordance with the Service Description. Service Level Agreements, if any, and corresponding remedies are service-specific and can be found in the Service Description. CUSTOMER AGREES THAT THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS WHETHER EXPRESS OR IMPLIED CONCERNING THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. VERITAS DOES NOT WARRANT THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

4. Fees; Payment; Taxes.
(a) Customer will pay the fees ("Fees") to: (i) Veritas for the Services set forth in the SOF; or (ii) Customer's nominated Veritas-authorized reseller as separately agreed between Customer and such reseller. Fees with respect to the renewal of Services may be increased in accordance with the SOF or as otherwise quoted at renewal. Customer will pay Veritas invoiced amounts within thirty (30) days of the invoice date ("Due Date"). If any sum payable to Veritas is not paid by the Due Date, Veritas reserves the right, without prejudice to any other remedy, to (i) charge interest on such overdue sum on a day to day basis from the due date until paid in full, calculated at the lesser of one percent (1%) per month or the maximum rate permitted by applicable law; and/or (ii) suspend the provision of the Services upon five (5) days prior notice until paid in full. All Fees paid or payable for Services are non-cancellable and non-refundable. If Veritas or Customer requires a purchase order document ("PO") to process a SOF, then such PO must have sufficient detail to allow Veritas to accept and accurately fulfill Customer's order. Accordingly, Customer's PO(s) must be sufficient to cover any Fees, including, as applicable, any setup or service activation fees, recurring services fees for any minimum commitments, plus any additional funding for Customer's estimated overages for the Term. Customer will replenish or replace such PO(s) on an ongoing, timely manner, as needed.

(b) Customer is responsible for all taxes, customs duties, import fees or other similar charges, and all other mandatory payments imposed by government entities with respect to the Services or other items provided under this Agreement, excluding tax imposed on Veritas' net income and withholding taxes (subject to the condition of providing withholding tax payment receipts, as set forth below). Veritas will bill applicable taxes as a separate item on Customer's invoice and will not include them in the Fees. If a transaction is exempt from tax, Customer will provide Veritas with a valid exemption certificate or other evidence of such exemption in a form acceptable to Veritas. If Customer is required by law to withhold any tax from the payment, Customer will provide to Veritas original or certified copies of all tax payment receipts or other evidence of payment of taxes by Customer with respect to transactions under this Agreement. If Customer fails to provide Veritas with such tax payment receipts, if applicable, then Customer will reimburse Veritas for any fines, penalties, taxes and other governmental agency charges resulting from such failure.

5. Confidentiality. “Confidential Information” means the non-public information that is exchanged between the parties, provided that such information is: (a) identified as confidential at the time of disclosure by the disclosing party ("Discloser"), or (b) disclosed under circumstances that would indicate to a reasonable person that the information ought to be treated as confidential by the party receiving such information ("Recipient"). A Recipient may use the Confidential Information that it receives from the Discloser solely for performing activities contemplated under this Agreement. For a period of five (5) years following the applicable date of disclosure of any Confidential Information, a Recipient will not disclose the Confidential Information to any third party and will protect it by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication as the Recipient uses to protect its own similar Confidential Information. The Recipient may disclose the Confidential Information to its Affiliates, agents and independent contractors with a need to know to fulfill the purpose of the Agreement, who have signed a nondisclosure agreement at least as protective of the Discloser's rights as this Agreement. This provision imposes no obligation upon a Recipient with respect to Confidential Information which: (a) is or becomes public knowledge through no fault of the Recipient; (b) was in the Recipient's possession before receipt from the Discloser and was not subject to a duty of confidentiality; (c) is rightfully received by the Recipient without any duty of confidentiality; (d) is disclosed generally to a third party by the Discloser without a duty of confidentiality on the third party; or (e) is independently developed by the Recipient without use of the Confidential Information. The Recipient may disclose the
Discloser's Confidential Information as required by law or court order provided: (i) the Recipient promptly notifies the Discloser in writing of the requirement for disclosure; and (ii) discloses only as much of the Confidential Information as is required. Upon request from the Discloser, the Recipient will return all Confidential Information and all copies, notes, summaries or extracts thereof or certify destruction of the same. Each party will retain all right, title and interest in that party's Confidential Information. The parties acknowledge that a violation of the Recipient's obligations with respect to Confidential Information may cause irreparable harm to the Discloser for which a remedy at law would be inadequate. Therefore, in addition to any and all remedies available at law, Discloser will be entitled to seek an injunction or other equitable remedies in all legal proceedings in the event of any threatened or actual violation of any or all of the provisions hereof.


TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH IN THE AGREEMENT FAILS ITS ESSENTIAL PURPOSE, IN NO EVENT SHALL VERITAS OR ITS SUPPLIERS BE LIABLE, WHETHER IN CONTRACT, TORT OR OTHERWISE TO CUSTOMER 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.

7. Compliance with Law. The Agreement shall be governed by and construed by the following laws: the laws of the State of California, for Customers located in the Americas; the laws of Singapore, for Customers located in Asia Pacific; the laws of England and Wales, for Customers located in EMEA. Such application of law excludes any provisions of the United Nations Convention on Contracts for the International Sale of Goods, including any amendments thereto, and without regard to principles of conflicts of law. Customer acknowledges 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 and Deliverables are rendered. Customer agrees 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, Customer will not export or re-export (directly or indirectly) the Services and Deliverables or other technical data without complying with such export and import and use restrictions, including the U.S. DOC, Export Administration Regulations.

8. Data Privacy. Veritas will maintain administrative, technical and physical safeguards ("Security Standards") for the Veritas Network designed to (i) protect the security and integrity of the Veritas Network, and (ii) protect against accidental or unauthorized, or unlawful access, use, alteration or disclosure of, loss, destruction or damage to, Customer information. The "Veritas Network" means Veritas' data center facilities, servers, and networking equipment/software that are under Veritas' reasonable control and are used to provide the Services. The Security Standards will be substantially equivalent to the generally accepted security standards in the IT industry for services similar to the Services. Veritas will conform to the Security Standards during the Term. The parties acknowledge that the performance of the Services does not specifically require Veritas to collect, create, transmit or process any personally identifiable information ("PII") from Customer. Veritas may have incidental or temporary access to PII during access to the Customer's computing environment while performing the Services. Veritas shall protect the security and confidentiality if knowingly exposed to any PII and will cooperate with Customer to effect its data privacy compliance measures, if necessary. Customer is hereby notified that Veritas may provide the Services from any Veritas or Veritas partner facility anywhere in the world (including, without limitation, the USA and countries in the European Union). With respect to any and all data, including, but not limited to, third party data, PII and associated metadata, provided by Customer to Veritas pursuant to Customer's use of the Services (collectively, the "Data"), in providing the Services, Veritas operates as a data processor with no control over the type, substance or format of such Data. Customer represents and warrants as data controller that: (i) all such Data is either the sole property of Customer or has been provided by Customer to Veritas in accordance with Customer's privacy policy and applicable laws; and (ii) Customer has obtained all consents required to transfer the Data to Veritas and/or its partners, including for areas outside the European Economic Area, for the purposes of the Services. Veritas shall process the Data in accordance with the Customer's instructions, provided that such instructions are consistent with the terms of this Agreement. Where Customer's processing of the personal data provided to Veritas under these Services is subject to the General Data Protection Regulation (EU) 2016/679, or other applicable laws that relate to the processing of personal data and privacy that may exist in the European Economic Area and/or Switzerland, Veritas shall process such personal data in accordance with the Data Processing Terms and Conditions at https://www.veritas.com/gdpr. All questions and requests on privacy matters may be addressed to Veritas Technologies LLC – Privacy Program Office at Veritas' headquarters location published on veritas.com, email: privacy@veritas.com.

9. Miscellaneous. (a) Any subsequent modifications to this Agreement or SOF will be made in writing and duly signed by authorized representatives of both parties or they will be void and of no effect. The Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes any previous or contemporaneous agreement, proposal, commitment, representation, or other
communication whether oral or written between the parties regarding such subject matter. This Agreement prevails over any conflicting or additional terms of any purchase order, ordering document, acknowledgement or confirmation or other document issued by Customer, even if signed and returned. (b) Veritas has the right to subcontract to third parties the performance of the Services, provided that Veritas remains responsible for the contractual obligations under this Agreement and any SOF. (c) All notices will be in writing and addressed to the receiving party’s current business contact, if known, with a cc: to the General Counsel/Legal Department of the receiving party and sent to the party’s address as listed in the SOF, or as updated by either party in writing. Notices shall be effective upon receipt and shall be deemed received as follows: if personally delivered by courier, when delivered; or if mailed by first class mail, or the local equivalent, on the fifth business day after posting with the proper address. (d) Customer may not assign the rights granted hereunder or this Agreement, in whole or in part and whether by operation of contract, law or otherwise, without Veritas’ prior written consent. Such consent will not be unreasonably withheld or delayed. Customer shall have no right to sell, resell or use the benefits of Services to or for any third party. (e) Each party will be excused from performance, other than payment obligations, for any period during which, and to the extent that, it is prevented from performing any obligation or service, in whole or in part, due to unforeseen circumstances or to causes beyond such party’s reasonable control including but not limited to war, strike, riot, crime, acts of God, or shortages of resources. (f) If any provision of this Agreement or SOF is found partly or wholly illegal or unenforceable, such provision will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions will remain in full force and effect. A waiver of any breach or default under this Agreement will not constitute a waiver of any other right for subsequent breach or default. (g) Any term of this Agreement, which is intended to survive expiration or termination will survive, including, without limitation, confidentiality, restrictions on use of intellectual property, limitations on liability and disclaimers of warranties and damages, governing law, and Customer’s payment obligations accrued prior to termination.