



## VERITAS HOSTED SERVICES TRIAL TERMS

These Veritas Hosted Trial Services Terms ("**Trial Service Terms**") are part of the Trial Agreement between You and Veritas. For the purposes of these Services Terms, "**Veritas**" means Veritas Technologies LLC and/or its subsidiaries, and the terms "**You**", "**Your**" or "**Trial Customer**" refer to the Services Entitlement owner/contract owner named in the Trial Services Order. You and Veritas may each also be referred to as a "**Party**" and together, the "**Parties**." The "**Trial Agreement**" consists of, collectively, these Trial Services Terms, plus the terms of the applicable Trial Services Order including the relevant Services Description. Capitalized terms not defined in these Trial Services Terms have the same meaning as defined in the Trial Services Order. Trial Customer and Veritas agree as follows:

1. **DEFINITIONS.** Capitalized terms shall have the meanings set forth below. Defined terms stated in the singular may be used in the plural, and vice versa.

a) "**Affiliate(s)**" means, any present or future entity that, directly or indirectly Controls, or is Controlled by, or is under common Control with either Party, where "Control" means power to direct or cause the direction of the management and policies of an entity whether through the ownership of voting securities, by contract, or otherwise.

b) "**Certificate**" means the machine-generated certificate sent to Customer by Veritas to confirm an order of the applicable Services, whether ordered directly from Veritas or through Veritas's authorized channel partner.

c) "**Confidential Information**" has the meaning given under "**Confidentiality**" below.

d) "**Service Component**" means certain enabling software, hardware peripherals and associated documentation which may be separately provided by Veritas as an incidental part of a Trial Service.

e) "**Service Description**" means Veritas's standard, then-current description of a Service's features, including any product-specific additional terms and requirements, and any accompanying service level targets ("**SLA**"), if applicable.

f) "**Trial Customer Content**" means information which the Customer uploads to the Service to be processed and/or stored through the Services and any information generated within the Service as a result of the processing of that information.

g) "**Trial Customer Entity Data**" means information that Veritas needs to configure the Service, and/or to provide any included support for the Service to the Customer, including but not limited to, names, e-mail address, IP address and contact details of designated users and contacts for the Service, and other Personal Information provided during configuration of the Service or any subsequent support call.

h) "**Trial Period**" means the initial minimum period of time for which Trial Customer commits to trial a Service, as set forth in a Services Order.

i) "**Trial Service(s)**" means cloud-based and/or hosted trial Veritas service(s), delivered to Trial Customer hereunder, whether as an individual service or as a collective bundle of related services, including any Service Components.

j) "**Trial Services Order**" means the Parties' mutually-agreed commitment for Trial Services under this Trial Agreement. A Trial Services Order may take the form of a written addendum, exhibit or statement of work signed by the Parties, a machine-generated Veritas quote accepted by Customer, or in the absence of any such document, Customer's order accepted by Veritas directly or through an authorized Veritas channel partner, as documented in the Certificate issued in confirmation of such order.

2. **TRIAL SERVICES.** Veritas agrees to provide the Trial Services specified in the Services Order, subject to this Trial Agreement. Subject to applicable law, Veritas reserves the right to provide the Services from anywhere in the world. Trial Customer's access to the Trial Services from certain countries may be subject to applicable law and any technical limitations of the Services. Trial Services may be updated by Veritas from time to time. In order to enable Veritas to setup and/or provide the Trial Services, Trial Customer will provide Veritas with all necessary technical data, and other current, accurate and complete information reasonably required by Veritas for such purposes.

3. **TRIAL SERVICES USAGE.**

a) **Use.** Trial Customer will only use the Trial Services for its internal business use.

b) **Lawful Use of Trial Services.** Trial Customer may only use the Trial Services for lawful business purposes. If Trial Customer does not comply with this requirement, Veritas reserves the right to suspend all or part of the Trial Services immediately during such non-compliance.

4. **TRIAL PERIOD AND EFFECT OF TERMINATION.** The Trial Period will commence on the date that Trial Customer is notified by Veritas that the Trial Services have been provisioned. There will be no charge for the Trial Services during the Trial Period. At any time prior to the commencement of the Trial Period or during the Trial Period, Veritas may, in its sole discretion, decline or discontinue provision of the Trial Services and terminate this Trial Agreement with immediate effect. Once the Trial Period has

commenced, Trial Customer may terminate this Trial Agreement and Veritas's provision of Trial Services upon seventy-two (72) hours prior written notice to Veritas. After the Trial Period expires, Trial Customer may request to continue the Veritas hosted services only upon Trial Customer entering into a separate Veritas hosted services agreement. Subject always to Veritas's obligations in Sections 5 (Confidentiality) and 6 (Use and Protection of Trial Customer Content and Trial Customer Entity Data), Trial Customer agrees that Veritas will not return any Trial Customer Content to Trial Customer upon expiration or termination of this Trial Agreement.

## 5. CONFIDENTIALITY.

a) "**Confidential Information**" means the non-public information that is exchanged between the parties, provided that such information is: (1) identified as confidential at the time of disclosure by the disclosing party ("**Discloser**"), or (2) 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 other party solely for the purpose of performing activities contemplated under this Trial 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. A Recipient 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 confidential information of a like nature. The Recipient may disclose the Confidential Information to its Affiliates, agents and subcontractors with a need to know in order to fulfill the purpose of this Agreement, who have signed a nondisclosure agreement at least as protective of the Discloser's rights as this Agreement.

b) This provision imposes no obligation upon a Recipient with respect to Confidential Information which: (i) is or becomes public knowledge other than by breach of this Agreement; (ii) was in the Recipient's possession before receipt from the Discloser and was not subject to a duty of confidentiality; (iii) is rightfully received by the Recipient without any duty of confidentiality; (iv) is disclosed generally to a third party by the Discloser without a duty of confidentiality on the third party; or (v) 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: (1) the Recipient promptly notifies the Discloser in writing of the requirement for disclosure; and (2) discloses only as much of the Confidential Information as is required. Upon request from the Discloser or upon termination of the Agreement, the Recipient will return all Confidential Information and all copies, notes, summaries or extracts thereof or certify destruction of the same.

c) Each party will retain all right, title and interest to such 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.

## 6. USE AND PROTECTION OF TRIAL CUSTOMER CONTENT AND TRIAL CUSTOMER ENTITY DATA.

a) Veritas operates as a data processor with no control over the type, substance or format of Trial Customer Content. Trial Customer, as data controller, is responsible (i) to ensure that processing and disclosure of such information to Veritas complies with applicable laws; (ii) to inform users that their information will be processed by Veritas in the United States or other countries that may have less protective data protection laws than the region in which they are situated (including the European Economic Area); (iii) to inform users of how it will be used, and to assure that Trial Customer has all appropriate consents required for such transfer and use; and (iv) to inform relevant users that communications transmitted through systems covered by the Trial Services may be intercepted or monitored for purposes of the Trial Services.

b) In the normal course of providing the Trial Services, Veritas does not require access to or use of the Trial Customer Content, other than by machine-read, electronic methods. Veritas, its Affiliates, agents or subcontractors, may access or use the Trial Customer Content, if required, to enable proper functioning of the Trial Service or as otherwise set forth in the Service Descriptions. In the limited circumstances where Veritas has any access to the Trial Customer Content, Veritas shall process the Trial Customer Content in accordance with the Trial Customer's instructions, provided that such instructions are consistent with the terms of this Trial Agreement. Veritas may access, use or disclose Trial Customer Content as required by law or court order. Veritas will give Trial Customer reasonable notice of any legally required disclosure to allow Trial Customer to seek a protective order or other appropriate remedy (except to the extent Veritas's compliance with the foregoing would cause it to violate a court order or other legal requirement). As between Trial Customer and Veritas, at all times the Trial Customer Content will remain the property of Trial Customer.

c) By providing the Trial Customer Entity Data, Trial Customer acknowledges that the Trial Customer Entity Data, including any Personal Information contained within it, will be processed and accessible on a global basis by Veritas, its Affiliates agents and subcontractors for the purposes of providing the Trial Services, to generate statistical information about the Trial Services, for internal research and development, and as otherwise described in the Services Descriptions, including in countries that may have less protective data protection laws than in the country in which Trial Customer or its 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. Trial Customer also consents for itself and as agent for its contacts whose details have been provided as part of the Trial Customer Entity Data to the use by Veritas of that Personal Information for the purposes of informing Trial Customer of Veritas products and services which may be of interest to Trial Customer and account management. All questions and requests on privacy matters may be addressed to Veritas Technologies LLC – Privacy Program Office, 500 East Middlefield Road, Mountain View, CA 94043, USA. Email: <mailto:privacy@veritas.com>. Veritas acknowledges that individuals may choose to opt out of direct marketing at any time on written notice to Veritas.

## 7. DISCLAIMER OR WARRANTIES. TRIAL CUSTOMER AGREES THAT VERITAS SHALL PROVIDE THE TRIAL SERVICES ON AN "AS-IS" BASIS AND 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 TRIAL 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 TRIAL SERVICES WILL MEET TRIAL CUSTOMER'S REQUIREMENTS OR THAT USE OF THE TRIAL SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

8. **INTELLECTUAL PROPERTY.** The intellectual property rights in the Trial Services are and will remain Veritas's property or that of its licensors.

9. **INDEMNIFICATION BY CUSTOMER.** Trial Customer agrees, at Veritas's request to defend, and to indemnify Veritas against and hold Veritas harmless from any and all claims, actions, losses, costs and expenses Veritas may incur as a result of: (i) any breach by Trial Customer of the Section entitled "Lawful Use of Trial Services", (ii) Customer's unauthorized use of the Trial Services in a manner not contemplated by the Services Description, or (iii) any third party claim in relation to Trial Customer Content and/or Trial Customer Entity Data.

10. **LIMITATION OF LIABILITY.**

a) Nothing in this Agreement shall exclude or limit: (i) Veritas's liability for death or personal injury caused by its negligence; or (ii) any fraudulent pre-contractual misrepresentations made by Veritas on which Trial Customer can be shown to have relied; or (iii) any other liability which cannot be excluded by law.

b) IN NO EVENT WILL VERITAS OR ITS SUPPLIERS BE LIABLE WHETHER IN CONTRACT, TORT OR OTHERWISE, TO TRIAL CUSTOMER OR ANY OTHER PERSON FOR: (i) ANY COSTS OF PROCUREMENT OF SUBSTITUTE OR REPLACEMENT GOODS AND SERVICES, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR CORRUPTION TO DATA, BUSINESS INTERRUPTION, LOSS OF PRODUCTION, LOSS OF REVENUES, LOSS OF CONTRACTS, LOSS OF GOODWILL, OR ANTICIPATED SAVINGS OR WASTED MANAGEMENT AND STAFF TIME OR LOSS OR DAMAGE OF ANY KIND; OR (ii) ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES, LOSSES, EXPENSES OR COSTS OF ANY KIND; EVEN IF ADVISED OF THE POSSIBILITY AND WHETHER ARISING DIRECTLY OR INDIRECTLY OUT OF THIS TRIAL AGREEMENT OR USE OF THE TRIAL SERVICES, DEFECTIVE PERFORMANCE, NON-PERFORMANCE OR DELAYED PERFORMANCE BY VERITAS OF ANY OF ITS OBLIGATIONS UNDER OR CONNECTED WITH THIS AGREEMENT.

11. **SERVICES DESCRIPTION.** The Service specific features and terms set forth at the following shall apply to this Trial Agreement: [go.veritas.com/cloudterms](http://go.veritas.com/cloudterms) (or successor URL published by Veritas from time to time); provided, however, "Service Levels" and the issuance of "Service Credits" are not applicable to this Trial Agreement.

12. **U.S. GOVERNMENT RESTRICTED RIGHTS.** The Veritas hosted services and any related enabling software are deemed commercially available hosted services and commercial computer software as defined in FAR 12.212, and are subject to Veritas's commercial licensing/use terms, as required by FAR Section 52.227-19 "Commercial Computer Licensed Software – Restricted Rights" and DFARS 227.7202, "Rights in Commercial Computer Licensed Software or Commercial Computer Licensed Software Documentation", as applicable, and any successor regulations, whether delivered by Veritas as on premises or hosted services. Any use, modification, reproduction, release performance, display or disclosure of the hosted services and such software by the U.S. government shall be solely in accordance with the terms of this Trial Agreement. For purposes of this license, the services are defined as all of the functions and capabilities performed by Veritas's software applications accessed under this license, regardless of whether such functions and capabilities operate independently, interdependently or in conjunction with third party applications. Contact Legal Department, Veritas Technologies Corporation, 500 East Middlefield Road, Mountain View, California 94043, U.S.A.

13. **GENERAL.** (a) Veritas has the right to subcontract the performance of the Trial Services to third parties, provided that Veritas remains responsible for the contractual obligations according to the Trial Agreement and any Trial Services Order. (b) All notices of breach, termination or the like 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 Agreement, or as updated by either party in writing. Notices shall be effective upon receipt and shall be deemed received as follows: (i) if personally delivered by courier, when delivered, or (ii) if mailed by first class mail, or the local equivalent, on the fifth business day after posting with the proper address; or (iii) by email and/or by publication on the applicable interface(s) through which Trial Customer's administrator interacts with the Trial Services. (c) Trial Customer may not assign the rights granted hereunder or the Trial Agreement, in whole or in part and whether by operation of contract, law or otherwise, without Veritas's prior written consent. (d) 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. (e) This Trial Agreement shall be governed by and construed under the following laws, without giving effect to conflict of law principles: the laws of the state of California for Trial Customers located in the Americas; the laws of England and Wales for Trial Customers located in Europe, Middle East or Africa; the laws of Singapore for Trial Customers located in Asia Pacific. Such application of law excludes any provisions of the United Nations Convention on Contracts for the International Sale of Goods, including any amendments thereto. (f) If any provision of the Trial Agreement 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 the Trial Agreement will not constitute a waiver of any other right for subsequent breach or default. No person other than a party to the Trial Agreement will be entitled to enforce any term of it except as expressly provided herein. (g) Trial Customer hereby acknowledges and agrees that the Trial Services and any related download or technology ("**Controlled Technology**") may be subject to applicable export control and trade sanction laws, regulations, rules and licenses, and that Trial Customer is hereby notified of the information published

by Veritas on <http://www.veritas.com/legal/legal-notices>, or successor website, and will comply with the foregoing, and with such further export restrictions that may govern individual Trial Services, as specified in the relevant Service Descriptions. **(h)** Any subsequent modifications to these terms and conditions will be made in writing and duly signed by authorized representatives of both parties or they will be void and of no effect. Together with the terms of the Trial Services Order, these terms are 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. The Trial Agreement prevails over any conflicting or additional terms of any purchase order, ordering document, acknowledgement or confirmation or other document issued by Trial Customer, even if signed and returned. The terms of the Trial Services Order, the terms of the main body of this Trial Agreement, and the Services Description shall govern, in that order of precedence, in the event of any conflict by or among such documents. This Trial Agreement may be executed in multiple counterparts all of which taken together shall constitute one single agreement between the parties. The signatories hereto represent that they are duly authorized to sign this Trial Agreement on behalf of their respective companies.