



SYMANTEC ONLINE SERVICES TERMS AND CONDITIONS

These SYMANTEC ONLINE SERVICES TERMS AND CONDITIONS are entered into as of the Effective Date specified in the Order Confirmation and are made by and between the Symantec entity issuing the Order Confirmation (“**Symantec**”) and the end user of the Online Services (“**Customer**”, “**You**” or “**Your**”) together, the “**Parties**.” This “**Agreement**” means collectively these Online Services Terms and Conditions, as well as the specific Service Description for each Online Service as well as any quote, if applicable. In the event of a conflict, the following order of precedence applies: these Online Services Terms and Conditions, any quote (if applicable), and the Service Description.

The Parties agree as follows:

1. **DEFINITIONS.** Capitalized terms shall have the meanings set forth below.

- a) “**Affiliate(s)**” means, for Symantec, the Symantec group of companies; for Customer it means an entity controlled by, under common control with, or controlling a Party, where control is denoted by having (directly or indirectly) more than fifty percent (50%) of the voting power (or equivalent) of the applicable entity.
- b) “**Customer Content**” means, any information provided by You to use the Online Service, including, but not limited to, Network Data.
- c) “**Meter**” means the applicable unit(s) of measurement by which Symantec sells a Subscription to an Online Service, in effect at the time of the Order Confirmation.
- d) “**Network Data**” means data that Symantec or its Affiliates process, collect, retain and use in order to configure the Online Services, to provide the Online Services, and/or in connection with Your use of the Online Services, including but not limited to time of transaction, User IP address, username, URL, URL category, status (success or error), file type, filter result (allowed or denied), virus ID, and other metadata (e.g. browser software used), and any other network traffic (and related data related) sent to or received from Customer through use of the Online Services, in detail and/or in an aggregated form.
- e) “**Order Confirmation**” means the electronically-generated confirmation that Symantec or its Affiliates sends to You, or your designated reseller, to confirm a purchase of the applicable Online Services, as well as Subscription Term, whether ordered directly from Symantec or through a Symantec authorized reseller.
- f) “**Online Service**” means any Symantec branded solution delivered over the Internet and/or hosted or managed by Symantec, or its Affiliate, and made available via a network, including any Service Component(s)
- g) “**Personal Data**” means the personal data as defined by applicable data protection legislation contained in the Customer Content or the Network Data, or otherwise provided to Symantec by or collected from You, in connection with Symantec’s provision and Your use of the Online Services.
- h) “**Service Components**” means certain enabling software, hardware peripherals and associated documentation which may be separately provided by Symantec as an incidental part of an Online Service.
- i) “**Service Description**” means Symantec’s published description of an Online Service’s features, including, but not limited to, any service-specific additional terms and requirements, and any accompanying service level agreements (“**SLA**”).

- j) **“Subscription”** means, for purposes of this Agreement, a fixed term right to access, use and/or benefit from an Online Service as defined in each Order Confirmation.
- k) **“Subscription Term”** means the period of time for which a Subscription is valid, as defined in each Order Confirmation.

2. USE OF ONLINE SERVICES.

a) **Initial Account and Service Set-Up.** You must provide Symantec with all reasonably necessary Customer Content to allow Symantec to provision and deliver each Online Service.

b) **Use of Online Services.** You or Your Affiliates are permitted to use the Online Services i) for Your internal business purpose, ii) up to the Meter amount for which You have purchased a Subscription, iii) only for lawful business purposes and in compliance with applicable laws, and iv) in accordance with any use limitations defined in the applicable Service Description. If You do not comply with these requirements, Symantec reserves the right to immediately suspend all or part of the Online Services during such non-compliance, without compensation to You of any kind.

c) **Use by Third Parties.** You are permitted to use the Online Services through third-party consultants, provided such parties are under written obligation to comply with this Agreement, and You assume full responsibility for their actions in connection with such use.

d) **Customer Configurations.** The Online Services do not include Your configurations, nor policies and procedures implemented and set by You that are available through the Online Services. You acknowledge and agree that You are solely responsible for selecting Your configurations and assuring that the selection conforms to Your policies and procedures and complies with all applicable laws and regulations in jurisdictions in which You are accessing the Online Services.

e) **Changes to Subscription Meter Amounts.** For Subscriptions that are invoiced in arrears, You can change Your Subscription Meter amount at any time, without having to submit any additional order to Symantec for such changes. For Subscriptions that are invoiced in advance, You may increase Your Subscription Meter amount at any time, by submitting an order for additional Online Services. If Your current use of an Online Service exceeds the Meter amount shown on Your applicable Order Confirmation(s), then You must promptly submit a new order for the additional use, which will be invoiced at the then-current rates, or as mutually agreed upon by the Parties, through the current Subscription Term, and Your aggregate Meter amount will be the basis for any renewal of the Subscription. Symantec reserves the right to invoice You for any additional use, at the then-current rates, if a corresponding order is not promptly received. Each additional order will be subject to the then-current version of this Agreement.

3. SUBSCRIPTION TERM; AUTOMATIC RENEWAL.

a) **Subscription Term and Automatic Renewal Option.** The Subscription Term will start on the date indicated on the Order Confirmation. If Your Order Confirmation indicates that the Subscription will automatically renew for the Online Service, then the Subscription Term will be renewed for a subsequent equal term and Your account will be invoiced without further action by You on the renewal date for the aggregate Meter amount at the end of the previous Subscription Term. If Your Order Confirmation does not indicate automatic renewal, then You must contact Symantec or Your reseller prior to the expiration of Your current Subscription Term to continue to access the Online Services beyond the end of the Subscription Term.

b) **Automatic Renewal Opt Out.** For Subscriptions that automatically renew, You may opt out of the automatic renewal option at any time by contacting Your reseller or by contacting Symantec at customercare@symantec.com. In the event that Symantec ceases to offer automatic renewal for specific Online Services, Symantec will provide notification to Your then-current business or technical contact, and/or by publication on the applicable management portal for the Online Service(s).

c) **Pay for Use Option.** Notwithstanding a) and b) above, for Online Services that offer a pay for use option, as specified in the Service Description or applicable program guide, Your invoices will be based upon Your actual usage in the preceding month with or without an upfront commitment. You will continue to be invoiced so long as You continue to use the Online Services.

d) **End of Online Service Availability.** Symantec will aim to provide You with twelve (12) months' notice of the last date of an Online Service's availability. Symantec will provide such notification to Your then-current business or technical contact, and/or by publication on the applicable administrator portal for the Online Service(s). Once an Online Service is no longer available, You will no longer have access to or use of the Online Service.

4. TERM; TERMINATION.

a) **Term.** These Online Services Terms and Conditions are effective upon the date of acceptance or Your use of the Online Services, whichever occurs first, and will continue unless terminated as specified below.

b) **Right to Termination.** (i) If You have chosen the automatic renewal option for Your Subscription, then You may cancel such automatic renewal at any time. (ii) For any Subscription that is paid in advance or for a Subscription Term of twelve (12) months or longer, such Subscription is non-cancellable and payments for such Subscription are non-refundable. (iii) For any Subscription paid in arrears, with a Subscription Term of no more than thirty (30) days, either Party may cancel orders for such Subscriptions upon thirty (30) days' written notice before the end of Your next billing cycle. (iv) This Agreement and each individual Subscription may be terminated by either Party if the other Party breaches any material term of this Agreement and such breach remains uncorrected for thirty (30) days following written notice; or immediately, if the other Party becomes the subject of a voluntary or involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or similar action for the benefit of creditors as a consequence of debt, or if the other Party otherwise ceases or threatens to cease business.

c) **Effect of Termination.** Upon termination of an individual Subscription, the Agreement and all other Subscriptions will continue in full force and effect. Upon termination of this Agreement in whole, all current Subscriptions will be terminated immediately. Termination of this Agreement will be without prejudice to any rights or liabilities accrued as of the date of termination. Symantec is entitled to invoice and be paid for all Online Services provided up to the effective date of termination, and all invoices become immediately then due and payable. Any provision of the Agreement which is intended to survive expiration or termination will survive, including, without limitation, confidentiality, restrictions on use of intellectual property, indemnity, limitations on liability and disclaimers of warranties and damages, governing law, and Your payment obligations accrued prior to termination.

5. PRICING; INVOICES; FEES; PAYMENT; TAXES.

THE FOLLOWING TERMS SHALL APPLY ONLY IN THE EVENT THAT SYMANTEC ACCEPTS CUSTOMER'S ORDERS DIRECTLY. If You order from a Symantec authorized reseller, then all provisions related to pricing, invoicing, fees, payments and taxes shall be as agreed between You and such reseller. Symantec will not be liable for any agreement between You and any reseller for any other account administration on Your behalf.

a) **Pricing.** Symantec reserves the right to change its pricing at any time. Symantec may change its pricing for an Online Service by publishing, quoting or invoicing You for the updated pricing and will aim to provide advance notice before such changes take effect.

b) **Invoices.** Symantec reserves the right to invoice immediately upon acceptance of an Online Service(s) order. If You require a purchase order document ("**PO**"), in order for Symantec to process Your payment of an invoice, then such PO must include sufficient detail to allow Symantec to accept and accurately fulfil Your order. Depending on the Online Service Subscription model You select, Symantec will either: (i) invoice You for the Online Services in advance, or (ii) invoice You in arrears. Such invoicing schedule will be defined in the Order Confirmation. Symantec reserves the right to begin invoicing You, even if Symantec cannot provide the Online Services due to Your act or omission or failure to provide required information.

c) **Fees and Payment.** You will pay Symantec the fees agreed to by the Parties ("**Fees**") within thirty (30) days from the date of invoice unless otherwise mutually agreed to in writing by the Parties. Your order may contain Online Services that are invoiced in advance or in arrears. If any sum payable to Symantec is not paid by the due date, Symantec 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 the lesser of one percent (1%) per month or the maximum rate permitted by applicable law; and/or (ii) suspend the provision of the Online Services upon five (5) days prior notice, until paid in full.

d) **Taxes.** You are 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 Online Services or other items provided under this Agreement, excluding tax imposed on Symantec's net income and withholding taxes (subject to the condition of providing withholding tax payment receipts, as set forth below). Symantec will bill applicable taxes as a separate item. If a transaction is exempt from tax, You will provide Symantec with a valid exemption certificate or other evidence of such exemption in a form acceptable to Symantec. If You are required by law to withhold any tax from the payment, You will provide Symantec with original or certified copies of all tax payment receipts or other evidence of payment of taxes by You with respect to transactions under this Agreement. If You fail to provide Symantec with such tax payment receipts, if applicable, then You will reimburse Symantec for any fines, penalties, taxes and other governmental agency charges resulting from such failure.

6. LIMITED WARRANTY. Symantec warrants that it provides Online Services using reasonable care and skill in accordance with the corresponding Services Description and within the industry standards. The warranty for an Online Service ends when the Subscription Term ends.

SYMANTEC DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF AN ONLINE SERVICE OR THAT SYMANTEC WILL CORRECT ALL DEFECTS OR PREVENT THIRD PARTY DISRUPTIONS OR UNAUTHORIZED THIRD-PARTY ACCESS. THESE WARRANTIES ARE THE EXCLUSIVE WARRANTIES FROM SYMANTEC AND REPLACE ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. SYMANTEC'S WARRANTIES WILL NOT APPLY IF THERE HAS BEEN MISUSE, MODIFICATION, DAMAGE NOT CAUSED BY SYMANTEC, FAILURE TO COMPLY WITH INSTRUCTIONS PROVIDED BY SYMANTEC, OR AS OTHERWISE STATED IN SYMANTEC'S PUBLISHED POLICY. NON-SYMANTEC BRANDED SERVICES ARE SOLD UNDER THE AGREEMENT AS-IS, WITHOUT WARRANTIES OF ANY KIND.

7. INTELLECTUAL PROPERTY. You acknowledge that, while performing the Services, Symantec may use software and related processes, instructions, methods, and techniques that have been previously developed by Symantec Corporation and/or its licensors, and that the same shall remain the sole and exclusive property of Symantec Corporation and/or its licensors.

8. DEFENSE OF THIRD PARTY CLAIMS.

Symantec will defend, indemnify and hold You harmless against any claims asserting that the Online Services infringe any intellectual property right of a third party, and will pay any and all damages finally awarded by a court and actually paid by You, or agreed to in a final settlement by Symantec and attributable to such claim. Symantec's obligations under this provision are subject to Your not having compromised or settled such claim and doing the following: (a) notifying Symantec of the claim in writing, as soon as You learn of it; (b) providing Symantec with all reasonable assistance and information to enable Symantec to perform Symantec's duties under this Section; and (c) allowing Symantec and its Affiliates sole control of the defense and all related settlement negotiations. Notwithstanding the foregoing, You may participate at Your expense in the defense of any such claim with Your own counsel, provided that Symantec and its Affiliates retain sole control of the claim. You have the right to approve any settlement that affirmatively places on You an obligation that has a material adverse effect on You other than the obligations to cease

using the affected Online Service or to pay sums indemnified under this Section. Such approval will not be unreasonably withheld.

If the Online Services are found to infringe, or if Symantec determines in Symantec's sole opinion that the Online Services are likely to be found to infringe, then Symantec will either: (i) obtain for You the right to continue to use the Online Services; or (ii) modify the Online Service (including, if applicable, any Service Component(s)) so as to make it non-infringing, or replace it with a non-infringing equivalent substantially comparable in functionality, and in the case of infringing Service Component(s), You will stop using any infringing version of such Service Component(s)); or, if Symantec determines in its sole opinion that "(i)" and/or "(ii)" are not reasonable, Symantec may (iii) terminate Your rights and Symantec's obligations under this Agreement with respect to such Online Services, and in such case shall refund to You the pre-paid fees for the relevant Online Services. Notwithstanding the above, Symantec will not be liable for any infringement claim to the extent that it is based upon: (1) modification of the Online Services other than by Symantec; (2) combination, use, or operation of the Online Services with products not specifically authorized by Symantec to be combined with the Online Services; (3) use of the Online Services other than in accordance with this Agreement; or (4) Your continued use of infringing Online Services after Symantec, for no additional charge, supplies or offers to supply modified or replacement non-infringing Online Services.

THIS SECTION STATES YOUR SOLE AND EXCLUSIVE REMEDY AND SYMANTEC'S SOLE AND EXCLUSIVE LIABILITY WITH RESPECT TO CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY. EXCEPT AS EXPRESSLY STATED IN THIS SECTION, ALL WARRANTIES AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, STATUTORY, EXPRESS, OR IMPLIED ARE EXPRESSLY DISCLAIMED.

9. CONFIDENTIALITY.

a) "Confidential Information" means, for purposes of this Agreement, the non-public information provided by a Party ("Discloser") to the other Party ("Recipient") related to the business opportunities between the Parties, provided that such information is: (1) identified as confidential at the time of disclosure by the Discloser, or (2) if the initial disclosure is not in written or other tangible form, the Confidential Information will be so identified at the time of disclosure and reduced to written or other tangible form, appropriately marked and submitted by the Discloser to the Recipient as soon as reasonably practicable thereafter, but no later than thirty (30) days after disclosure. Confidential Information of Symantec shall include product architecture, product research and development plans, non-public financial data and roadmaps, whether marked as confidential or not. A Recipient may use the Confidential Information that it receives from the Discloser solely for the purpose of 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. 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, under a nondisclosure agreement at least as protective of the Discloser's rights as this Agreement.

b) This Section 9 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, if legally permissible; 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 aim to 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. Subject to the terms of this Agreement: (i) Discloser may request the return of Confidential Information; (ii) or upon termination or completion of the Agreement or any Online Services, Recipient will either return (if technically feasible to do so) or destroy the Confidential Information and upon request of Discloser, will certify such destruction. Notwithstanding the foregoing and provided that such information is protected in accordance with the terms of this Agreement, the Recipient may continue to maintain copies of Confidential Information: (x) that is included in its data backup, which will be destroyed in accordance with the Recipient's data retention policies; or (y) as required to comply with applicable law, which will be destroyed when such obligation is met.

10. SECURITY OF CUSTOMER CONTENT. Symantec will protect Customer Content from unauthorized access, use or disclosure. To that effect, Symantec will maintain adequate technical, organizational, and physical safeguards in order to protect the security and integrity of the Customer Content against accidental, unauthorized, or unlawful destruction, loss, alteration, disclosure or access.

11. PERSONAL DATA PROCESSING. You acknowledge and agree that Symantec will process Personal Data as part of the provision of the Online Services in accordance with, and for the purposes defined in, Symantec Global Privacy Statement available at www.symantec.com/privacy, including: (i) management of Customer relationship; (ii) sales administration (e.g. management of products and services, ordering and invoicing, contract management, technical support renewal management); (iii) Symantec products/services related communications including technical support information such as new versions or updates; (iv) management of Symantec products and services entitlement; (v) marketing of Symantec products and services; (vi) development of threat intelligence resources aiming at ensuring and improving the ability of networks and systems to resist unlawful or malicious actions compromising the security of information and services accessible via such networks and systems; (vii) development and enhancement of Symantec products and services; (viii) compliance with applicable laws, regulations and law enforcement requests (all of the above being defined as **Symantec Processing**).

The following terms shall apply to the extent EU Data Protection Legislation applies to the process activities involved in the Online Services:

The term "EU Data Protection Legislation" means the: (i) the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data, and repealing Directive 95/46/EC ("GDPR"); and (ii) to the extent applicable to the Online Services, any other EU or EU Member State data protection laws with respect to the processing of Personal Data under the Agreement.

The terms "Controller" and "Processor" used below shall have the meaning defined in the applicable EU Data Protection Legislation.

As a Processor, Symantec shall only process Personal Data on Customer's behalf in accordance with the terms of the Data Processing Addendum available at www.symantec.com/privacy.

Customer has been advised that during the term of this Agreement Symantec will collect Personal Data and process it as a Controller pursuant to the Symantec Global Privacy Statement available at

www.symantec.com/privacy to the extent permitted by EU Data Protection Legislation, including for the purposes of Symantec Processing (as defined above).

12. LIMITATION OF LIABILITY.

a) Nothing in this Agreement shall exclude or limit: (i) Symantec's liability for death or personal injury caused by its negligence; (ii) any fraud or fraudulent pre-contractual misrepresentations made by Symantec on which Customer can be shown to have relied; (iii) Symantec's obligations outlined in Section 8; or (iv) any other liability which cannot be excluded by law.

b) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL SYMANTEC OR ITS SUPPLIERS BE LIABLE TO CUSTOMER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, 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, ANTICIPATED SAVINGS, WASTED MANAGEMENT AND STAFF TIME; WHETHER (IN ANY SUCH CASE) ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AGREEMENT OR USE OF THE ONLINE SERVICES, AND WHETHER OR NOT SYMANTEC OR ITS SUPPLIERS HAVE BEEN ADVISED SUCH DAMAGES OR LOSSES MIGHT OCCUR; OR (II) ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES.

c) SUBJECT TO SECTIONS A) AND B), TO THE EXTENT PERMITTED BY APPLICABLE LAW, SYMANTEC'S OR SYMANTEC'S SUPPLIERS' TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR OTHERWISE IS LIMITED TO THE TOTAL OF THE FEES ACTUALLY PAID OR PAYABLE FOR THE ONLINE SERVICE GIVING RISE TO THE CLAIM, DURING THE TWELVE (12) MONTHS BEFORE THE CAUSE OF ACTION AROSE.

13. U.S. GOVERNMENT RESTRICTED RIGHTS. This Section 13 applies only to U.S. Government entities. The Online Service is deemed to be commercial computer software for purposes of FAR 12.212 and DFAR Section 227-7202. Any use, modification, reproduction release, performance, display or disclosure of the Online Service by the U.S. Government shall be solely in accordance with the terms of this Agreement, and except as otherwise explicitly stated in this Agreement all provisions of this Agreement shall apply to the U.S. Government.

14. AUDIT RIGHTS. If Symantec cannot accurately determine Customer's use of the Online Services through Symantec's systems used to provide the Online Services, the following shall apply: Symantec may audit Your use of the Online Services to verify that Your usage has not exceeded the Subscription Meter amount during the Subscription Term, including without limitation through collection and use of Customer Content, self-certifications, on-site audits and/or audits done using a third-party auditor, at Symantec's expense. Third party audits will be done upon reasonable notice and during normal business hours, but not more often than once in any twelve (12) month period unless a material discrepancy was identified during the course of a prior review at Symantec's expense. You agree to implement internal safeguards to prevent any unauthorized use of, or access to, the Online Services. You further agree to keep records sufficient to certify Your compliance with this Agreement during the Subscription Term, and, upon request by Symantec, will provide and certify metrics and/or reports based upon such records and accounting for the Subscription Meter amount and relevant current and historical detail. If Your usage of the Online Services is determined to have exceeded the Subscription Meter amount during the Subscription Term, You will promptly submit an order within thirty (30) days, at Manufacturer's Suggested Retail Price (MSRP), or as mutually agreed upon with Symantec, applicable to Your current and historical use of the Online Services in excess of Your Subscription Meter amount, including, but not limited to current and historical Subscription fees. Excess subscription fees will be calculated at a minimum of one (1) year, unless an accurate prorated calculation can be determined and validated by Symantec. Symantec reserves the right to charge interest at the rate of one and one-half percent (1½%) per month or the highest interest rate allowed by law, whichever is

lower, from the date on which such amount became due. However, where the audit demonstrates that the MSRP value of Your non-compliant usage exceeds five percent (5%) of the MSRP value of Your Online Services. In such case, in addition to increasing the Subscription Meter amount to correct for current and historical excess usage, You shall reimburse Symantec for the costs for the third-party auditor.

15. TRIAL AND BETA. If the Online Service is provided to You for trial purposes and You have a signed trial agreement with Symantec for Online Services, Your rights to any trial of the Online Service will be pursuant to the terms of such signed trial agreement. If You do not have a signed trial agreement with Symantec for the Online Service and if You are provided any Online Service for trial purposes, the trial period will commence on the date that You are notified by Symantec that the Online Service has been provisioned and will continue for the time specified by Symantec, but not to exceed sixty (60) days. At any time prior to the commencement of the trial period or during the trial period, Symantec may, in its sole discretion, decline or discontinue provision of the Online Service and terminate the trial with immediate effect. Once the trial period has commenced, You may terminate the trial and Symantec's provision of the Online Service upon seventy-two (72) hours prior written notice to Symantec. After the trial period expires, You may request to continue using the Online Service being evaluated only upon purchase of the commercially available Online Service. During the trial period, no warranties shall apply to the Online Service, no technical support is included, and no service level agreements nor remedies will be available for the Online Service. All other terms and conditions of this Agreement shall otherwise apply to Your trial of the Online Service. **IN THE EVENT THAT YOU TEST THE BETA VERSION OF AN ONLINE SERVICE, YOU ACKNOWLEDGE THAT THE BETA ONLINE SERVICE IS UNTESTED, PRELIMINARY IN FORM AND/OR IN A TEST ENVIRONMENT. THE BETA ONLINE SERVICE IS PROVIDED "AS IS" WITH NO WARRANTIES OR REPRESENTATIONS WHATSOEVER. THE TERMS OF THE SERVICE LEVEL AGREEMENT (IF ANY) SHALL NOT APPLY TO ANY BETA ONLINE SERVICES.**

16. GENERAL. (a) Symantec is an independent contractor and shall not be deemed Your employee or agent. (b) Symantec has the right to subcontract the performance of the Online Services to third parties, provided that Symantec remains responsible for the contractual obligations according to the Agreement. (c) 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 stated in the Order Confirmation, 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. (d) You may not assign the rights granted under the Agreement, in whole or in part and whether by operation of contract, law or otherwise, without Symantec's prior written consent. Such consent will not be unreasonably withheld or delayed. (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 You are located in North America or Latin America, this Agreement will be governed by the laws of the State of California, United States of America. If You are located in China, this Agreement will be governed by the laws of the Peoples Republic of China. If You are otherwise located in Asia Pacific, this Agreement is governed by the laws of Singapore. If You are located in Europe, Middle East, or Africa, this Agreement will be governed by the laws of England and Wales. Such governing laws are exclusive of any provisions of the United Nations Convention on Contracts for Sale of Goods, including any applicable amendments, and without regard to principles of conflicts of law. (g) If any provision of the 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 Agreement will not constitute a waiver of any other right for subsequent breach or default. No person other than a party to the Agreement will be entitled to enforce any term of it except as expressly provided in the Agreement. (h) You acknowledge and agree that the Online Services (and applicable Services Components) 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 You are on notice of the information published by Symantec on <http://www.symantec.com/about/profile/policies/legal.jsp>, or successor website, and will comply with the foregoing, and with such further export restrictions that may govern individual Online Services, as specified

in the relevant Service Descriptions. (i) Notwithstanding the foregoing, Symantec may revise Online Service(s) and/or Service Descriptions at any time for the following reasons: (i) it becomes necessary due to applicable laws or industry standards, including, without limitation, any change of the foregoing; (ii) it becomes necessary for technological reasons when any change is made without materially degrading the Online Service(s) functionality; (iii) it becomes necessary to maintain the operation of the Online Service when any change is made without materially degrading the Online Service(s) functionality; or (iv) changes are in Your favor. (j) The terms of this Agreement are the complete and exclusive agreement between the parties with respect to the subject matter of this Agreement, 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 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. If this Agreement is translated in any language other than the English language, and in the event of a conflict between the English language version and the translated version, the English language version shall prevail in all respects.

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