

## API TERMS OF USE AGREEMENT

This API Terms of Use Agreement (the “Agreement”) is made effective as of \_\_\_\_\_ (“Effective Date”) by and between TD SYNEX Corporation, having its principal place of business at 44201 Nobel Drive, Fremont, California 94538 (“TD SYNEX”) and \_\_\_\_\_, having its principal place of business at \_\_\_\_\_ (“Reseller”).

WHEREAS, TD SYNEX has a third-party remote application program interface (“API”) web service offering (the “Offering”) available for use by Reseller; and

WHEREAS, in order to take advantage of the Offering, Reseller must agree to the terms and conditions set forth herein.

NOW, THEREFORE, the parties agree to the following terms and conditions:

1. **Setup, Configuration and Security.** Reseller must review and abide by the requirements for the Offering as set forth in the Offering guide (the “Guide”), which can be located at <https://www.acronis.com/en-us/support/platform-terms-conditions.html>. Reseller must properly utilize security methods and procedures which are reasonably sufficient to ensure the API is secure. Reseller agrees to follow all requirements set forth in the Guide regarding appropriate security procedures.
2. **Confidentiality.** The receiving party shall protect the confidentiality of the disclosing party’s Confidential Information. Notwithstanding the foregoing, each party may disclose the other party’s Confidential Information if and to the extent that such disclosure is required by law, provided that the receiving party uses reasonable efforts to limit the disclosure and provides the disclosing party a reasonable opportunity to preview and to object to the disclosure. “Confidential Information” shall mean the information of a party, which shall reasonably be inferred as confidential as well as that information that is actually marked confidential. If Confidential Information is orally disclosed it shall be identified as such at the time of disclosure and a brief written non-confidential description of the information and confirmation of the confidential nature of the information shall be sent to the recipient within 30 days after the disclosure. Quantities, schedules, pricing, sales reports and inventory reports shall be considered Confidential Information whether disclosed orally or in writing, or whether or not marked “Confidential” or “Proprietary.” Confidential Information does not include information that: (a) was in the possession of, or was known by, the receiving party prior to its receipt from the disclosing party, without an obligation to maintain its confidentiality; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by the receiving party from a third party, without an obligation to keep such information confidential; or (d) is independently developed by the receiving party without use of Confidential Information.
3. **Disclaimer.** USE OF THE OFFERING BY RESELLER IS ON AN “AS IS” BASIS AND TD SYNEX MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE OFFERING. TD SYNEX DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
4. **Limitation of Liability.** EXCEPT FOR A BREACH OF CONFIDENTIALITY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY

CONSEQUENTIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OR COSTS HOWSOEVER ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR COSTS. TD SYNEX SHALL NOT BE LIABLE FOR ANY DAMAGES OR CLAIMS REGARDING USE OF THE OFFERING, INABILITY TO ACCESS THE OFFERING, LOSS OF DATA, SERVICE INTERRUPTION, ERRORS, DEFECTS, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE.

5. Indemnification. Reseller will indemnify, defend and hold harmless TD SYNEX, its employees, successors, assigns, parent company and affiliated companies (each individually an “Indemnified Party” and collectively the “Indemnified Parties”) from and against any and all claims, demands, causes of action, expenses (including reasonable attorneys’ fees) and liabilities, arising out of Reseller’s: (1) acts or omissions relating in any way to its activities in connection with this Agreement; (2) actual or alleged misrepresentation relating to any of the Indemnified Parties, or (3) breach of this Agreement. Reseller shall pay any damages and costs assessed against the Indemnified Parties in connection with such claim.
6. Term and Termination. The term of this Agreement shall commence on the Effective Date and shall be in effect unless otherwise terminated as set forth below:
  - a. By mutual written agreement of both parties;
  - b. By either party, upon thirty (30) days prior written notice; or
  - c. At any time by TD SYNEX if the third-party service provider terminates access to the Offering.
7. Effect of Termination. Upon termination, all licenses and rights granted to Reseller under this Agreement shall be terminated. Provisions herein which by their nature extend beyond the termination or expiration of this Agreement will remain in effect until fulfilled.

The duly authorized representatives of the parties have executed and delivered this Agreement as of the Effective Date.

TD SYNEX Corporation

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_