

COHESITY, INC. SAAS TERMS OF SERVICE

COHESITY, INC. (TOGETHER WITH ITS AFFILIATES, “**COHESITY**”) AGREES TO SUPPLY ACCESS TO SPECIFIED COHESITY SAAS SERVICES TO YOUR BUSINESS OR ORGANIZATION (“**CUSTOMER**,” “**YOU**” OR “**YOUR**”) PROVIDED (A) YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO LEGALLY BIND CUSTOMER AND (B) YOU ACCEPT AND AGREE ON BEHALF OF CUSTOMER TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS IN THESE COHESITY SAAS TERMS OF SERVICE (THE “**SAAS TERMS**,” INCLUDING ALL DOCUMENTS INCORPORATED HEREIN BY REFERENCE). THE FOREGOING SHALL BE DEFINITELY EVIDENCED BY CLICKING THE “ACCEPT,” “CONTINUE,” OR A SIMILAR BUTTON; SIGNING A TANGIBLE COPY OF THIS AGREEMENT; USING OR CONTINUING TO USE SERVICES; OR BY SUCH OTHER CONTRACT FORMATION MECHANISM AS MAY BE RECOGNIZED BY LAW. IF YOU DO NOT AGREE TO THESE TERMS, CEASE ALL ACCESS AND/OR USE OF SERVICES.

1. SCOPE OF SAAS TERMS

- 1.1 These SaaS Terms shall apply to Services. Cohesity’s Global Terms also apply to all Cohesity Offerings.
- 1.2 Separate terms and conditions apply to use of customer-managed software, available at <https://www.cohesity.com/agreements>.

2. SERVICES AND RESTRICTIONS

- 2.1 Service Scope and Access. Customer may access and use the Services to which Customer is Entitled for Customer’s internal business purposes only, subject to the Agreement (including the Scope of SaaS Offerings), payment of the relevant fees, and all applicable use, capacity, or other limitations specified in writing. Services may be supplied using third-party infrastructure such as Amazon Web Services or Microsoft Azure.
- 2.2 Service Levels. The Services will be provided in accordance with the applicable Service Level Agreement (if applicable).
- 2.3 Overages. Customer is permitted a thirty (30) day grace period for excess Usage or unforeseen events leading to non-compliance with its Entitlements. Subsequently, Customer is expected to make an additional purchase or expansion to Entitlements to address any prior or continued excess capacity Usage.
- 2.4 Notwithstanding anything else, Cohesity may apply modified terms to the Services, provided such modification(s) shall not become effective for Customer until renewal of the then-current subscription (unless otherwise specified).

3. CUSTOMER CONTENT AND RESPONSIBILITIES

- 3.1 Customer Content. Customer Content is Customer’s Confidential Information and shall not be deemed part of any Services by virtue of being located on or processed through the Services. As between the Parties, Customer or its licensors retain all right, title and interest (including any and all intellectual property rights) in and to the Customer Content and any modifications made thereto in the course of the operation of the Services. Cohesity is hereby expressly granted a non-exclusive, worldwide, royalty-free right to access and process the Customer Content strictly to the extent necessary to provide the Services.
- 3.2 Customer Responsibilities. Customer is responsible for:
 - (a) ensuring Customer Content and its use of Services comply with the Agreement and Law, including that Customer agrees not to store or process protected health information using the Services without first entering into a business associate addendum to these SaaS Terms with Cohesity;
 - (b) any claims that Customer Content infringes, misappropriates, or violates any third party’s rights, including handling notices claiming Customer Content violates such rights;
 - (c) security and confidentiality of its account information (including usernames, passwords, and access information) and shall notify Cohesity immediately if any such information is lost, stolen, or compromised;
 - (d) selecting appropriate available security options and configurations within the Services in accordance with Documentation and based on Customer’s organization, security posture, regulatory standing, and the nature of the Customer Content (for example, Customers using Services to store Customer Content containing sensitive regulated data should self-manage private encryption keys); and
 - (e) configuring and using the Services and other systems, tools, and technology properly to conform to applicable requirements specified in Documentation.

3.3 Customer Content After Termination. Access to Entitled Services ceases on the last day of the applicable Subscription Period, provided however that Customer may continue to access the Services for thirty (30) days thereafter solely to the extent necessary to retrieve Customer Content ("**Retrieval Period**"). During Evaluations, the Retrieval Period shall be no greater than seven (7) days. UPON EXPIRATION OF THE RETRIEVAL PERIOD, COHESITY RESERVES THE RIGHT TO DELETE CUSTOMER CONTENT AND SEEK COMPENSATION FOR USAGE BY CUSTOMER DURING THE RETRIEVAL PERIOD (E.G. INGRESS AND EGRESS FEES).

4. SERVICES WARRANTY

4.1 Cohesity warrants that the Services will operate substantially in accordance with, and as described in, the Documentation.

4.2 Cohesity's sole obligation under the warranty set forth in Section shall be, at Cohesity's expense, to repair or replace the applicable Services in accordance with the Support Terms. If Customer believes Cohesity is in breach of this Section, Customer shall notify Cohesity in writing specifying the breach, following which Cohesity shall have not less than thirty (30) days to remedy same.

5. DEFINITIONS

Capitalized terms used but not defined herein shall have their meaning given in the Global Terms.

5.1 "**Cohesity SaaS**" means Cohesity-managed proprietary software-as-a-service offerings supplied by Cohesity under the Agreement.

5.2 "**Customer Content**" means Customer's content and application data received by the Data Plane for management and storage.

5.3 "**Data Plane**" means data storage and associated services supplied by Cohesity through Cohesity SaaS;

5.4 "**Global Terms**" means Cohesity's Global Terms and Conditions at <https://www.cohesity.com/agreements> or signed by the Parties.

5.5 "**Scope of SaaS Offerings**" means Cohesity's Scope of SaaS Offerings at <https://www.cohesity.com/agreements>.

5.6 "**Service Level Agreement**" means Cohesity's SaaS Service Level Agreement at <https://www.cohesity.com/agreements>.

5.7 "**Services**" means those elements of Cohesity SaaS and related services/components to which Customer becomes Entitled under the Agreement.

5.8 "**Usage**" means Customer's highest point of capacity consumption of an Entitled Service during a specified period of measure (or if not so separately specified in an Entitlement, the Subscription Period).