

## TERMS OF USE

Last Updated: June 23, 2022

### ACCEPTANCE

Please read these Terms of Use (“Terms”) carefully before using this website (the “Site”). By using the Site you have accepted these Terms. If you do not accept these Terms, or if you do not agree with our Privacy Policy, which is available at <https://www.cohesity.com/legal/privacy/> and incorporated into these Terms by reference, please do not use the Site. Cohesity may modify all or any part of these Terms from time to time in our sole discretion without notice to you. Your continued use of the Site following the posting of revised Terms means that you accept and agree to the changes. Cohesity will not be liable if, for any reason, all or any part of the Site is unavailable at any time or for any period.

BY ACCESSING, BROWSING, OR OTHERWISE USING THE SITE, YOU REPRESENT THAT: (I) YOU HAVE READ, UNDERSTAND AND AGREE TO THESE TERMS, (II) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH COHESITY, INC. (“COHESITY” OR “US” OR “WE”), AND (III) YOU HAVE THE AUTHORITY TO ENTER INTO THESE TERMS PERSONALLY OR ON BEHALF OF THE ENTITY YOU REPRESENT. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, YOU MAY NOT ACCESS OR USE THE SITE.

### LICENSE AND SITE ACCESS

Subject to these Terms and our Privacy Policy, you are granted a limited license to use the Site to learn about and potentially access products, software and/or services (“Services”) and to copy, display, and use the functionality, materials, features, and services provided by the Site solely for your personal, non-commercial use. If you use certain Services, you acknowledge and agree that in addition to these Terms, you may be subject to the applicable terms and conditions which are available at <https://www.cohesity.com/agreements/> or in another agreement between You and Cohesity (“Agreement”). In the event of a conflict between these Terms and the Agreement, the Agreement will prevail. This license does not include any resale or commercial use of the Site or its contents; any derivative use of the Site or its contents; any downloading or copying of account information; or any use of data mining, robots, or similar data gathering and extraction tools. The Site or any portion of the Site may not be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose without the express written consent of Cohesity. You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of Cohesity’s without our express written consent. You may not use any meta tags or any other “hidden text” utilizing Cohesity’s name or trademarks without the express written consent of Cohesity. Any unauthorized use terminates the permission or license granted by Cohesity.

### ACCOUNT

In order to use certain features of the Services you may be asked to create an account. You agree to provide true, accurate, current and complete information about yourself as prompted by the Site and will maintain the accuracy of such registration data. Cohesity may refuse to grant you a username for any reason in our sole discretion, including in the event that Cohesity determines that such user name impersonates someone else, is illegal, vulgar, or otherwise offensive, or is protected by trademark or other proprietary rights law, or otherwise may cause confusion. Cohesity has the absolute right to disable any username or password and/or block your IP address, at any time without notice, for any reason, including, if in our sole discretion we believe that you have failed to comply with any provision of these Terms. You are responsible for maintaining the confidentiality of your password and account and for all activity that occurs on your account (including purchases). You agree not to sell or transfer your use of or access to the Site or permit anyone else whose account was suspended or terminated to use this Site through your user name or password. You agree to immediately notify Cohesity of any unauthorized use of your username or

password or any other breach of security. Cohesity will not be liable for any loss you incur as a result of someone else using your password and account with or without your permission.

## RESTRICTIONS

There are no implied licenses under these Terms. Cohesity reserves all rights not expressly granted to you herein. Any use of the Site not expressly permitted by these Terms is a breach of these Terms and may violate copyright, trademark and other laws.

## COPYRIGHT

All content included on the Site, such as text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations, and software, is the property of Cohesity or our licensors and protected by United States and international copyright laws. The compilation of all content on the Site is the exclusive property of Cohesity or our licensors and protected by United States and international copyright laws. All software used on the Site is the property of Cohesity or its software suppliers and protected by United States and international copyright laws.

Cohesity strictly prohibits the redistribution or copying of any part of this Site or content on this Site without written permission from Cohesity. Cohesity authorizes you to display on your computer, download and print pages from this Site provided: (a) the copyright notice appears on all such printouts, (b) the information will not be altered, (c) the content is only used for personal, educational and non-commercial use, and (d) you do not redistribute or copy the information to any other media.

## TRADEMARKS

The trademarks, logos, graphics, logos, page headers, button icons, scripts, and service names are trademarks, registered trademarks or trade dress of Cohesity in the United States and/or other countries ("Marks"). Cohesity's Marks may not be used in connection with any product or service that is not Cohesity's, in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits Cohesity. All other Marks not owned by Cohesity that appear on this Site are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by Cohesity. You are not permitted to use these Marks without the prior written consent of Cohesity or such third party which may own the Mark.

## PATENTS

One or more patents owned by Cohesity, Inc. or its affiliates may apply to the Site and to the features and Services accessible via the Site. Portions of the Site may operate under license of one or more patents.

## CUSTOMER CASE STUDIES

Customer case studies on the Site may discuss the various individual benefits that some of our customers have experienced. However, the individual benefits from using our offerings may vary. All testimonials are real customers, and may not reflect the typical purchaser's experience, and are not intended to represent or guarantee that anyone will achieve the same or similar results and benefits.

## FORWARD-LOOKING STATEMENTS

Some of the information on the Site may contain projections or other forward-looking statements regarding future events or the future financial performance of Cohesity. We wish to caution you that these statements are only predictions and actual events or results may differ materially. Such statements include those that: (a) use the words "believes," "expects," "anticipates," "estimates" or words of similar importance or meaning;

(b) are specifically identified as forward-looking; (c) describe any of Cohesity's plans, objectives or goals for future operations and products; or (d) concern the characteristics and growth of Cohesity's markets or customers. Factors that could cause actual results to differ materially include economic, competitive, governmental and technological influences affecting Cohesity's operations, markets, products, services and prices. Cohesity does not assume any obligation to update any forward-looking statement to reflect events that occur or circumstances that exist after the date on which they were made.

## REVIEWS, COMMENTS, COMMUNICATIONS AND OTHER CONTENT

Site visitors may post reviews, comments and other content; and submit suggestions, ideas, comments, questions, or other information (collectively, "Content"), so long as the Content is not illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights, or otherwise injurious to third parties or objectionable and does not consist of or contain software viruses, political campaigning, commercial solicitation, chain letters, mass mailings, or any form of "spam." If you do post Content, and unless Cohesity indicate otherwise, you grant Cohesity a non-exclusive, royalty-free, perpetual, irrevocable, and fully sublicensable right to copy, make, use, sell, translate, disclose to third parties, reproduce, modify, adapt, publish, perform, translate, create derivative works from, distribute, and publicly display such Content throughout the world in any media. You grant Cohesity and sublicensees the right to use the name that you submit in connection with such Content, if we choose. You may not use a false e-mail address, impersonate any person or entity, or otherwise mislead as to the origin of any Content. You agree that this license includes a right for Cohesity to make such Content available to other companies, organizations or individuals with whom Cohesity has relationships with for the provision of services, and to use such Content in connection with the provision of those services. You understand that Cohesity may: (a) transmit or distribute your Content over various public networks and in various media; and (b) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media.

You and third parties may be permitted to upload certain software (including machine images), data, text, audio, video, images or other content ("Third Party Content") to community areas of the Site. You acknowledge that: (a) Cohesity has not tested or screened Third Party Content, (b) your use of any Third Party Content is at your sole risk, and (c) Third Party Content may be subject to separate license terms as determined by the person posting such content.

You represent and warrant that you own or otherwise control all of the rights to the Content and/or Third Party Content that you post; that the Content and/or Third Party Content is accurate; that use of the Content and/or Third Party Content you supply does not violate these Terms and will not cause injury to any person or entity; and that you will indemnify, defend and hold Cohesity and its subsidiaries, affiliates, officers, directors, shareholders, predecessors, successors, employees, agents and licensors harmless from all claims, losses, liabilities and expenses (including attorneys' fees) resulting from Content and/or Third Party Content you supply. Cohesity has the right but not the obligation to monitor and edit or remove any activity or Content or Third Party Content. Notwithstanding anything to the contrary in any agreements between you and Cohesity, you are wholly liable for any Content and/or Third Party Content that you submit and all use thereof. Cohesity shall have no responsibility and assumes no liability for any Content and/or Third Party Content posted by you or any third party, including without limitation claims made by third parties related to any false advertising claims, liability claims for products or services sold by the person or corporation submitting such Content and/or Third Party Content, claims for patent, copyright or trademark infringement, claims due to disruption or malfunction of services provided (pertaining to the submitted Content and/or Third Party Content), even if such Content and/or Third Party Content is reviewed by Cohesity prior to publishing on the Site. Cohesity may disclose your identity to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy and take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Site.

## THIRD PARTY PRODUCTS

Mention of third parties and third-party products in any materials, advertising, promotions or coupons provided to you is for informational purposes only and constitutes neither an endorsement nor a recommendation. All third-party product specifications and descriptions are supplied by the respective vendors or suppliers, and Cohesity shall have no responsibility with regard to the selection, performance or use of such vendors or products. To the extent you access or use such products, all understandings, agreements or warranties, if any, shall be directly between the vendor and you.

## LINKS

You may find links to other websites on the Site. Those links will let you leave Cohesity's Site. Cohesity exercises no control whatsoever over such third-party websites and any contents or web-based resources found on those third-party sites and is not responsible or liable for the availability thereof or the content, advertising, products or other materials thereon or any updates or changes thereto. Cohesity is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by Cohesity of any linked sites. Cohesity shall not be responsible or liable, directly or indirectly, for any damage or loss incurred or suffered by any user in connection therewith. Your access and use of those websites, including your use of any content, information, data, advertising, products, or other materials on or available through such websites, is solely at your own risk is subject to the terms and conditions of use and privacy policy(ies) applicable to such sites and resources. Once you choose to be directed to another website, you should read that website's privacy statement before disclosing any personal information.

## LINKING TO OUR SITE

You may link to our homepage, provided you do so in a way that is fair and legal and does not damage, or take advantage of, our reputation, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists. You are prohibited from linking to any other page of the Site without our express written permission. Cohesity reserves the right to withdraw linking permission without notice. You must not establish a link from any website that is not owned by you. You agree to cooperate with Cohesity in stopping any unauthorized framing or linking.

## SUBMISSION OF IDEAS

Cohesity or any of its employees do not accept or consider unsolicited ideas or information you consider confidential and/or proprietary, including ideas for new advertising campaigns, new promotions, new products or technologies, processes, materials, marketing plans or new product names. Please do not send any original creative artwork, samples, demos or other works. The sole purpose of this policy is to avoid potential misunderstandings or disputes when Cohesity products or marketing strategies might seem similar to ideas submitted to Cohesity. Please do not send your unsolicited ideas to Cohesity or anyone at Cohesity. If despite our request that you not send us your ideas and materials, you still send them, please understand that all comments, suggestions, ideas, notes, drawings, concepts, or other information disclosed or offered to Cohesity by you through the Site or in response to solicitations on the Site shall be deemed to be non-confidential and non-proprietary and shall be the exclusive property of Cohesity. In any event, you acknowledge and agree that Cohesity assumes no obligation of confidentiality or nondisclosure, express or implied by considering your suggestion or idea. You hereby grant Cohesity a fully paid, royalty-free, perpetual, transferable, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to make, use, sell, offer for sale, import, reproduce, perform, display, distribute, adapt, modify, create derivative works of, and otherwise commercially exploit for any purpose any suggestion, feedback, communication, request for improvements or enhancements or ideas you submit to Cohesity relating to the Site or Services.

## ELECTRONIC COMMUNICATIONS

When you visit the Site or send emails to Cohesity, you are communicating with us electronically. You consent to receive communications from Cohesity electronically. Cohesity will communicate with you by e-mail or by posting notices on the Site. You agree that all agreements, notices, disclosures and other communications that Cohesity provides to you electronically satisfy any legal requirement that such communications be in writing.

## MARKETPLACE

A store accessible on the Site ("Marketplace") may permit users to access additional information about Cohesity and its partners' products or services. If you request information about or access those partners' products or services on a Marketplace, you agree to have your personal information shared with Cohesity's partners for marketing purposes.

## TAXES, PAYMENT INFORMATION AND THIRD-PARTY FEES

For any purchases made through the Site you agree to pay any applicable fees, taxes and third-party fees. We may take steps to collect the fees you owe us. You are responsible for all related collection costs and expenses. You hereby authorize us to share your information with third-party payment processors to store your payment method and use it in connection with purchases. To avoid interruption of Services, we may participate in programs supported by your card provider to try to update your payment information. You hereby authorize us to continue billing your account with the updated information that we obtain.

## ACCEPTABLE USE

Your use of this Site is subject to all applicable local, state, national and international laws and regulations, and you agree not to violate such laws and regulations. Any attempt by any person to deliberately damage the Site is a violation of criminal and civil laws. Cohesity reserves the right to seek damages from any such person to the fullest extent permitted by law. In addition, you agree not to post or transmit through the Site any material or content that violates or infringes in any way the rights of others or solicits, encourages or promotes the use of illegal substances or activities, which is unlawful, threatening, abusive, harassing, defamatory, libelous, derogatory, invasive of privacy or publicity rights, vulgar, obscene, bigoted or hateful, profane, scandalous, pornographic, indecent or otherwise objectionable, gives rise to civil or criminal liability or otherwise violates any applicable law. You may not engage in any activity on the Site that restricts or inhibits any other user from using or enjoying the Site by "hacking", "cracking", "spoofing", or defacing any portion of the Site.

You may not post or transmit through the Site advertising or commercial solicitations; promotional materials or online services which are competitive with Cohesity and/or the Site; software or other materials that contain viruses, worms, time bombs, Trojan horses, or other harmful or disruptive components, political campaign materials; chain letters; mass mailings, spam mail, any robot, spider, site search/retrieval application, or other manual or automatic device or process to retrieve, index, "data mine", or in any way reproduce or circumvent the navigational structure or presentation of the Site or its contents. You may not harvest or collect information about Site visitors without their express written consent.

You are permitted to use the Site only for legitimate business purposes related to your role as a current or prospective customer, developer, partner, supplier or distributor of Cohesity. You shall not copy, modify, create derivative works of, publicly display or perform, republish, download or store, or transmit any Site content without Cohesity's express prior written consent or except as expressly provided in these Terms. No rights are granted to you with respect to any content, including content other than the limited, personal, non-exclusive license to reproduce content as necessary to display the content on a machine that you use to interact with the Site. You agree that any copy of the content (or any portion of the content) from

the Site that you make must retain all copyright and other proprietary notices contained herein or therein. Framing of the Site or posting of content on other websites is strictly prohibited.

## RESTRICTIONS ON USE

The use or misuse of the Site or of any content on the Site, except as provided in these Terms, is strictly prohibited. You shall not, without Cohesity's express written consent:

- copy and retransmit, disseminate, broadcast, circulate, or otherwise distribute the content on any other server, or modify or re-use all or part of the content on this system or any other system;
- use any trade name, trademark, or brand name of Cohesity in metatags, keywords and/or hidden text;
- copy, distribute, modify, transmit, perform, reuse, re-post, or otherwise display the content, in whole or in part, for public or commercial purposes or modify, translate, alter or create any derivative works thereof;
- create derivative works from the content or commercially exploit the content, in whole or in part, in any way;
- use the Site, the content, and/or any portion thereof, in any manner that may give a false or misleading impression, attribution or statement as to Cohesity, the owner, or any third party referenced therein;
- use the content, and/or any Services on the Site or accessible via the Site for unlawful purposes;
- alter, remove or obscure any copyright notice, digital watermarks, proprietary legends or any other notice included in the content;
- disassemble, decompile, reverse compile or reverse engineer any part of the Site;
- use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to "scrape" or download data from any web pages contained in the Site;
- use the Site or content for any illegal, fraudulent, misleading or deceptive purposes;
- interfere with or damage the Site or content, including without limitation, through the use of viruses, cancel bots, Trojan horses, harmful code, flood pings, denial-of-service attacks, packet or IP spoofing, forged routing or electronic mail address information, or similar methods or technology;
- disrupt, overburden, or aid or assist in the disruption or overburdening of: (a) any computer or server used to offer or support the Site or products or services; or (b) the enjoyment of the Site or products or services by any other person;
- upload any content to the Site that: (a) infringes any patent, trademark, trade secret, copyright, right of publicity, or other right of any person or entity; or (b) is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, offensive or profane; or
- engage in any chain letters, contests, junk email, pyramid schemes, spamming, surveys, or other duplicative or unsolicited messages (commercial or otherwise).

## GLOBAL AVAILABILITY

Cohesity controls this Site from its San Jose, California, USA offices; other Cohesity sites may be administered and operated from various locations inside and outside the United States. If you use the Site from other locations you are responsible for compliance with applicable local laws. Cohesity makes no representation that the Services referenced herein are appropriate, or available, worldwide and in fact certain Services may not be available worldwide.

## EXPORT

By using this Site, you represent and warrant that you are not located in, under the control of, or a national or resident of any country to which the United States has embargoed goods. You agree you will not export or re-export any goods or products unless you have complied with all applicable United States and foreign

government export controls and approvals. Cohesity makes no claim that content contained on the Site is appropriate or may be downloaded outside of the United States. Access to the Site from jurisdictions where the Site or any of its Services are illegal is prohibited. If you access the Site from outside the United States, you do so at your own risk and are responsible for compliance with the laws of your jurisdiction.

## DISCLAIMERS

THIS SITE AND ALL CONTENT, MATERIALS, INFORMATION, SOFTWARE, PRODUCTS AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOU EXPRESSLY AGREE THAT YOUR USE OF THIS SITE IS AT YOUR OWN RISK. COHESITY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE FUNCTIONALITY OR USEFULNESS OF THE SITE OR ANY CONTENT. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, COHESITY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. COHESITY MAKES NO WARRANTY THAT, (I) THE SITE (INCLUDING ANY CONTENT) WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, (II) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SITE WILL BE ACCURATE, COMPLETE OR RELIABLE, (III) THE QUALITY OF ANY SERVICES, CONTENT, INFORMATION, OR OTHER MATERIALS PURCHASED OR OBTAINED BY YOU THROUGH THE SITE WILL MEET YOUR EXPECTATIONS, (IV) ANY ERRORS WILL BE CORRECTED, OR THAT THE SITE, ITS CONTENT, AND THE SERVER ON WHICH THE SITE AND CONTENT ARE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES AND CHECKPOINTS TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR ANTI-VIRUS PROTECTION AND ACCURACY OF DATA INPUT AND OUTPUT AND FOR MAINTAINING A MEANS EXTERNAL TO OUR SITE FOR ANY RECONSTRUCTION OF ANY LOST DATA. COHESITY WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE SITE OR DUE TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY SITE LINKED TO IT. ANY MATERIAL (INCLUDING CONTENT) DOWNLOADED OR OBTAINED THROUGH THE USE OF THE SITE IS DONE AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY MATERIAL. INFORMATION CREATED BY THIRD PARTIES THAT YOU MAY ACCESS ON THE SITE OR THROUGH LINKS IS NOT ADOPTED OR ENDORSED BY COHESITY AND REMAINS THE RESPONSIBILITY OF THE THIRD PARTY. IF YOU BECOME DISSATISFIED IN ANY WAY WITH THE SITE, OR ITS TERMS OR PRIVACY POLICY, YOUR SOLE AND EXCLUSIVE REMEDY IS TO STOP YOUR USE OF THE SITE. YOU HEREBY WAIVE ANY AND ALL CLAIMS AGAINST COHESITY AND ITS AFFILIATES, AGENTS, REPRESENTATIVES AND LICENSORS ARISING OUT OF YOUR USE OF THE SITE. SHOULD APPLICABLE LAW NOT PERMIT THE FOREGOING EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, THEN COHESITY HEREBY GRANTS THE MINIMUM EXPRESS OR IMPLIED WARRANTY REQUIRED BY SUCH APPLICABLE LAW.

## LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED BY LAW, COHESITY, ITS AFFILIATES AND ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, LICENSORS OR OTHER REPRESENTATIVES IS NOT LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SITE, EVEN IF COHESITY HAS PREVIOUSLY BEEN ADVISED OF, OR REASONABLY COULD HAVE FORESEEN, THE POSSIBILITY OF SUCH DAMAGES, HOWEVER THEY ARISE, WHETHER IN BREACH OF CONTRACT OR IN TORT (INCLUDING NEGLIGENCE), INCLUDING WITHOUT LIMITATION DAMAGES DUE TO: (A) THE USE OF OR THE INABILITY TO USE THE SITE; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED

INTO, THROUGH OR FROM THE SITE; (C) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SITE, INCLUDING WITHOUT LIMITATION UNAUTHORIZED ACCESS TO OR ALTERATION OF TRANSMISSIONS OR DATA, MALICIOUS OR CRIMINAL BEHAVIOR, OR FALSE OR FRAUDULENT TRANSACTIONS, OR (D) CONTENT OR INFORMATION YOU MAY DOWNLOAD, USE, MODIFY OR DISTRIBUTE. IF ANY PORTION OF THIS LIMITATION OF LIABILITY IS FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON THEN COHESITY AND ITS AFFILIATES TOTAL AGGREGATE LIABILITY, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STATUTE OR OTHERWISE, AND YOUR SOLE AND EXCLUSIVE REMEDY, FOR ANY CLAIM (INCLUDING ANY SERIES OF CONNECTED OR RELATED CLAIMS) SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY COHESITY IN AN AMOUNT NOT TO EXCEED ONE HUNDRED DOLLARS (\$100.00 USD). THE PROVISIONS OF THIS SECTION ALLOCATE RISKS UNDER THESE TERMS BETWEEN COHESITY AND YOU. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS IN ITS ESSENTIAL PURPOSE. TO THE EXTENT ANY JURISDICTION DOES NOT ALLOW THE EXCLUSION OR LIMITATION OF DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, PORTIONS OF THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY.

## PRIVACY POLICY

Cohesity's Privacy Policy, located at <https://www.cohesity.com/legal/privacy/>, is incorporated herein by reference and describes the collection, use, and sharing of certain personally identifiable information that may be provided in connection with the use of the Site. Please read and understand our Privacy Policy before accessing or using the Site.

## GOVERNING LAW

These Terms and any dispute or claim arising out of, or related to, them, their subject matter or their formation (in each case, including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the State of California in the United States without giving effect to any choice or conflict of laws provision or rule (whether of the State of California or any other jurisdiction).

## DISPUTES

Any dispute arising from or relating to these Terms that cannot be resolved within a period of thirty (30) days after written notice of same has been given by Cohesity or you to the other (the "Arbitration Date") shall be finally settled by arbitration in San Jose, California, using the English language, in accordance with the Arbitration Rules and Procedures of JAMS ("JAMS") then in effect, by an arbitrator with substantial experience in resolving complex technology contract disputes, who will be chosen from the appropriate list of JAMS arbitrators. If Cohesity and you cannot agree upon the identity of an arbitrator within fifteen (15) days following the Arbitration Date, then an arbitrator shall be selected on an expedited basis in accordance with the Arbitration Rules and Procedures of JAMS. The arbitrator shall have the authority to grant specific performance and to allocate between the parties the costs of arbitration (including without limitation service fees, arbitrator fees and all other fees related to the arbitration) in such equitable manner as the arbitrator may determine. The prevailing party in the arbitration shall be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys' fees, expert witness fees and all other expenses) incurred in connection therewith. Judgment upon the award so rendered may be entered in a court having jurisdiction, or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding the foregoing, Cohesity and you shall have the right to institute an action in a court of proper jurisdiction for preliminary injunctive relief pending a final decision by the arbitrator, provided that a permanent injunction and damages shall only be awarded by the arbitrator. The parties consent to jurisdiction and venue in the United States Federal Courts located in the Northern District of California. Each party irrevocably consents to such personal jurisdiction and waives all objections thereto.



## EQUITABLE RELIEF

Notwithstanding anything to the contrary, Cohesity and you shall have the right to institute an action in a court of proper jurisdiction for injunctive or other equitable relief at any time, and the language to be used in any and all proceedings arising out of or related to these Terms shall be English.

## COPYRIGHT COMPLAINTS

If you believe that your work has been copied in a way that constitutes copyright infringement, please provide our copyright agent the written information specified below ("DMCA Takedown Notice"). Please note that this procedure is exclusively for notifying Cohesity that your copyrighted material has been infringed. To be valid, a DMCA Takedown Notice must: (i) be provided to Cohesity's designated agent, ("Copyright Agent"), as set forth below, and (ii) include the following:

- a. An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- b. A description of the copyrighted work that you claim has been infringed upon;
- c. A description of where the material that you claim is infringing is located on the Site;
- d. Your address, telephone number, and e-mail address;
- e. A statement by you that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- f. A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.
- g. Cohesity's Copyright Agent to receive DMCA Takedown Notices is: [copyright@cohesity.com](mailto:copyright@cohesity.com).

## ASSIGNMENT

These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Cohesity without restriction.

## MISCELLANEOUS

Cohesity's failure to enforce any provision of these Terms shall not be deemed a waiver of such provision nor of the right to enforce such provision. If any part of these Terms is determined to be invalid or unenforceable pursuant to applicable law, including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms shall continue in effect. Any waiver or failure to enforce any provision of the Terms on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. These Terms are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.