

OUR CUSTOMER TERMS CLOUD SERVICES – TELSTRA DATA PROTECT

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Certain words are used with the specific meanings set out below or in the General Terms section of Our Customer Terms.

1 ABOUT TELSTRA DATA PROTECT

- 1.1 This is the Telstra Data Protect section of Our Customer Terms. Depending on the nature of the products and services you are receiving under this Cloud Services section, provisions in other parts of the Cloud Services section, as well as in the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm>, may apply.
- 1.2 Unless you have entered into a separate agreement with us which excludes them, the General Terms section of Our Customer Terms also applies. See section one of the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm> for more detail on how the various sections of Our Customer Terms are to be read together.
- 1.3 See section one of the General Terms of the Cloud Services section for more detail on how the various parts of the Cloud Services section are to be read together.

2 TELSTRA DATA PROTECT

WHAT IS TELSTRA DATA PROTECT?

- 2.1 Telstra Data Protect comprises:
 - (a) a subscription for the Telstra Data Protect Application; and
 - (b) the Installation Service, if you elect to purchase it with your Telstra Data Protect service.
- 2.2 The “**Telstra Data Protect Application**” is a white-labelled online data backup application powered by Acronis Asia PTE LTD (“**Acronis**”) which gives you and your users the capability to backup and restore data files to and from servers or users’ devices for an agreed period of time. The Telstra Data Protect Application includes access to an administrative portal and the Service Software.

AVAILABILITY

- 2.3 On and from 27 February 2024, Telstra Data Protect will no longer be available for purchase by new customers.

3 ORDERING AND ELIGIBILITY

- 3.1 We may from time to time allow you to order all or part of the Telstra Data Protect service via the Telstra Apps Marketplace or another platform. If we do so, you must have a Telstra Apps Marketplace account to order the Telstra Data Protect service via the Telstra Apps Marketplace. The [Telstra Apps Marketplace section of Part B of the Cloud Services section Our Customer Terms](#) applies to your access to and use of the Telstra Apps Marketplace. We may notify you of additional terms that apply to any other ordering platform we make available to you from time to time.
- 3.2 You must have an Internet connection between your devices and the Telstra Data Protect Application in order to access, use and manage the Telstra Data Protect Application.

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4 YOUR TELSTRA DATA PROTECT APPLICATION RESPONSIBILITIES

- 4.1 You need to nominate an Administrator to manage your Telstra Data Protect Application. The Administrator responsibility will automatically be assigned to the first of your end users to access the Telstra Data Protect Application. Additional system administrator privileges can be assigned and unassigned to and from end users from within the Telstra Data Protect Admin Portal.
- 4.2 You are responsible for:
- (a) activating new user accounts, including deploying the User Licences for the Service Software through the Telstra Apps Marketplace;
 - (b) providing support to your users including product information, technical enquiries and training in connection with the Telstra Data Protect Application;
 - (c) managing your users and backup consumption (consumed gigabytes) including adding and removing users, account suspension and/or cancellation; and
 - (d) the Internet connection between your devices and our Telstra Data Protect Application.
- 4.3 If your device fails, you must ensure that it is fully and properly restored (including re-installation of all relevant Service Software if applicable) before re-connecting or re-accessing our Telstra Data Protect Application application.

5 YOUR DATA

- 5.1 We provide support to the Administrator(s) that you nominate. We do not provide support for all users. Support to your nominated Administrator(s) includes assistance with ad hoc questions about the Telstra Data Protect Application but does not include on-site assistance.
- 5.2 You are solely responsible for your conduct and data related to your Telstra Data Protect Application. If you lose your password or the encryption key for your account, you may not be able to access your data.
- 5.3 We (and our third party suppliers, including Acronis) may collect certain non-personally identifiable information which resides on the devices you or your end users use to access the Telstra Data Protect Application, including, without limitation, statistics relating to how often backups are stored and completed, performance metrics relating to the software, and configuration settings. This information may be sent to our third party suppliers and used by them as they see fit.
- 5.4 We may also share your data with third parties where necessary for the resolution of technical issues associated with the Installation Service.

6 LIMITATIONS OF THE TELSTRA DATA PROTECT APPLICATION

- 6.1 We do not monitor other services (for example, your Internet service) even if we have visibility of those services in connection with the Telstra Data Protect Application.
- 6.2 We are not responsible for the purchase or speed of your devices or servers.
- 6.3 The Telstra Data Protect Application will back up your data in accordance with your settings and instructions, unless the data storage limit for your Telstra Data Protect Application has been reached. The data storage limit for your Telstra Data Protect

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Application depends on the data storage inclusion in your selected Telstra Data Protection Application subscription (as set out in your order). Any data that may be lost as a result of reaching the set data storage limit is the responsibility of the assigned Administrator(s) and not us.

- 6.4 Scheduled backups of relevant devices and servers will only occur if those devices and servers are powered-on and connected to the internet during scheduled backup windows.
- 6.5 The Telstra Data Protect Application transmits data over an Internet connection to our Telstra Data Protect Application platform. You acknowledge that, as part of the Telstra Data Protect service, we are not responsible for that Internet connection (or monitoring that connection) and data may be delayed or lost if your Internet connection is compromised. If the transfer of your data to our Telstra Data Protect Application platform is time critical, you acknowledge that the Telstra Data Protect Application is not suitable for you.
- 6.6 You must ensure your Internet connection has a minimum upload bandwidth of 128 kbps available for use in connection with the Telstra Data Protect Application.
- 6.7 The Telstra Data Protect Application is not intended for use in connection with any nuclear, aviation, mass transit, or medical application or any other inherently dangerous application that could result in death, personal injury, catastrophic damage, or mass destruction, and you agree that, to the extent permitted by law, and subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, we have no liability to you as a result of any such use of the Telstra Data Protect Application.

7 TERRITORY RESTRICTIONS OF THE TELSTRA DATA PROTECT APPLICATION

- 7.1 You acknowledge and agree:
 - (a) that we are only permitted to supply Service Software User Licences to you if you are located in Australia,
 - (b) you will not attempt to acquire any User Licences for any entities or personnel not located in Australia.

8 SERVICE SOFTWARE

- 8.1 You will need to ensure that the Service Software is installed on each device or server that you wish to use with the Telstra Data Protect Application (“**Service Software**”). You are responsible for installing the Service Software on each such device or server unless you purchase the Installation Services, in which case, we will install the Service Software on agreed devices and servers in accordance with clause 9.
- 8.2 You will need to deploy a separate User Licence in respect of each device or service that you wish to use with the Telstra Data Protect Application. There is no limit on the number of User Licences you can deploy.
- 8.3 The Telstra Data Protect Application is licensed to you by Acronis on the terms set out in the Acronis EULA.
- 8.4 We do not guarantee that the Service Software for the Telstra Data Protect Application is compatible with other software that your users may have on your devices or servers. If the Service Software is not compatible with other software on a device or service, we

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may not be able to provide the Telstra Data Protect Application for use with that device or server.

- 8.5 You must ensure that your users do not distribute or install the Service Software on other devices or servers without your Administrator's prior approval. If a user installs the Service Software on a device without authority from the Administration, you will be responsible for this, including paying any applicable charges.
- 8.6 The Service Software may periodically check for updates, you agree that we may automatically download and install updates on your devices.
- 8.7 By purchasing Telstra Data Protect and downloading, installing or using the Service Software, you accept and agree to enter into the Acronis Software Licence Agreement with Acronis International GmbH, available at: https://dl.acronis.com/u/pdf/Acronis_corporate_EULA_en-US.pdf (“**Acronis EULA**”). For the avoidance of doubt, the Acronis EULA regulates the relationship between you and Acronis. You agree that the acceptance of the terms of the Acronis EULA is a condition of use of the Telstra Data Protect service. You must, and must ensure that your end users comply with, the Acronis EULA. To the extent that there is any inconsistency between the terms in the Acronis EULA and the other terms that apply to your Telstra Data Protect service, the terms in the Acronis EULA will prevail.

9 INSTALLATION SERVICE

WHAT IS THE INSTALLATION SERVICE

- 9.1 You may request, and we may agree to provide, the Installation Service. The “**Installation Service**” is installation, configuration, verification and hand over of the Service Software on nominated devices and servers (“**Backup Target Devices**”).
- 9.2 The terms set out in the [Other Services - Professional Services section of Our Customer Terms](#) apply to our provision, and your receipt and use of the Installation Service.
- 9.3 A summary of the standard inclusions in each Installation Service package is set out below.

Table 1 Availability in Installation Service Packages

| Inclusions | Essential 5 | Advanced 10 | Advanced 50 |
|---|---|--|--|
| Activation of Backup Target Devices | Up to 5 Backup Target Devices | Up to 10 Backup Target Devices | Up to 50 Backup Target Devices |
| Backup protection plan profiles <i>Creation of backup protection plan profile(s) in the Telstra Data Protect Application</i> | Up to 5 backup protection plan profiles | Up to 10 backup protection plan profiles | Up to 15 backup protection plan profiles |
| Customer Admin User creation | Creation of 1 Admin user | Creation of up to 3 Admin Users | Creation of up to 5 Admin Users |
| Delivery coordination | ✓ | ✓ | ✓ |

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| Inclusions | Essential 5 | Advanced 10 | Advanced 50 |
|---|-------------|-------------|-------------|
| Setup backup protection plans <i>Create backup rules and schedules in line with Customer needs and selected Installation Service package limits</i> | ✓ | ✓ | ✓ |
| Setup Backup Target Devices <i>Deploy and activate Telstra Data Protect tools to work with the identified Backup Target Devices – this may include software download/installation and software agent activation on the Target Backup Devices</i> | ✓ | ✓ | ✓ |
| Setup Admin User <i>Setup Admin Users in line with Customer needs and selected Installation Service package limits</i> | ✓ | ✓ | ✓ |
| Release and Deployment Management <i>Plan, schedule and control the activation of the Telstra Data Protect service to help minimise deployment impact on business operations</i> | ✓ | ✓ | ✓ |
| Service validation and testing | ✓ | ✓ | ✓ |
| Service orientation for nominated Administrator and provision of quick start guide | ✓ | ✓ | ✓ |
| Backup infrastructure overview and analysis <i>Review of your operating systems, permissions, bandwidth available, preferred backup timings and retention policies to advise on areas of risk and improvement in relation to backup</i> | ✗ | ✓ | ✓ |
| Train-the-trainer <i>Training for nominated Administrators</i> | ✗ | ✓ | ✓ |

9.4 We may agree additional Installation Service inclusions with you in your order.

9.5 Unless otherwise agreed in an order, the Installation Service will be provided remotely during Business Hours. Additional charges may apply for on-site installation or installation outside of Business Hours.

YOUR RESPONSIBILITIES

9.6 You must:

- (a) ensure that you purchase a Telstra Data Protect Application subscription that includes enough data storage to complete an initial backup of all Target Backup Devices and a reasonable amount of unique data growth overhead;
- (b) accurately complete the pre-service checklist form we provide to you before we can perform the Installation Service;
- (c) provide accurate detail on your existing IT and network environment and any other information we reasonably request in relation to the Target Backup Devices;

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- (d) provide at least 2 Business Days prior written notice to us if you wish to reschedule an appointment for performance of the Installation Service;
- (e) provide any necessary administrator access credentials and access to existing systems to allow our technician to perform the Installation Service;
- (f) act on the instructions of our Technician to perform certain activities in relation to the Installation Service (such as to download and activate specific applications on a mobile device) in circumstances where our Technician cannot do this remotely;
- (g) provide reasonable access to your sites if we have agreed to deliver the Installation Service onsite; and
- (h) sign a client acceptance certificate (CAC) once the Installation Service has been performed and the Telstra Data Protect service is operating on your Target Backup Devices.

10 EXPORT CONTROL LAWS

- 10.1 You must comply with any sanctions, export control, or import laws, or other regulations, orders, directives, designations, licences, or decisions relating to the trade of goods, technology, software and services which are imposed, administered or enforced from time to time by Australia, the United States (including any U.S. antiboycott laws and regulations), the United Kingdom, the EU, EU Member States, Switzerland, the Nations or United Nations Security Council, that are applicable to your use of Telstra Data Protect.

11 CHARGES

- 11.1 The charges for your Telstra Data Protect Service will be set out in your order for the Telstra Data Protect Service.
- 11.2 We will bill you:
- (a) the subscription fees for the Telstra Data Protect Application monthly in advance; and
 - (b) upfront in advance for the Installation Service.
- 11.3 We may change the price of your monthly subscription for the Telstra Data Protect Application, on 30 days prior written notice to you. Any change to the pricing will be applied to the next month's charges after the end of the notice period. If you do not wish to continue with your Telstra Data Protect Application subscription on the new charges you can terminate your subscription in accordance with clause 12.
- 11.4 The charges for your Telstra Data Protect Application will depend on your selected subscription plan. You may change your selected subscription plan from time to time. If you change your subscription plan partway through a month then we will:
- (a) provide you with a pro-rata refund of the subscription charges you have already paid in respect of that month that relate to the period after you changed your subscription plan; and
 - (b) charge you a pro-rata subscription charge for your new subscription for the remainder of that month.

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- 11.5 If you change your selected subscription plan to a plan that includes less data storage capacity than is required to complete full backups in accordance with your settings and instructions then the Telstra Data Protect Application may not backup your data in accordance with your settings and instructions (as further set out in clause 6.3).
- 11.6 You are responsible for managing your own Telstra Data Protect storage usage. The Telstra Data Protect application provides Administrators with the ability to control their organisation's cloud storage volumes, both at the user level and the device level.

12 TERM AND TERMINATION

- 12.1 Telstra Data Protect is provided on a month to month basis until it is terminated or cancelled by either party in accordance with these terms.
- 12.2 In addition to any termination rights in the Acronis EULA or the General Terms, either party may terminate or cancel the Telstra Data Protect service by notifying the other party in writing no less than 7 days before the monthly subscription is due to automatically renew.
- 12.3 On termination or cancellation of the Telstra Data Protect service, you will not be credited or refunded any subscription fees or Installation Service fees you have already paid in advance, and will be required to pay the monthly subscription fees which have already been billed in advance. However, your Telstra Data Protect service will not terminate, and your access and use rights will continue, until the end of the month in respect which you have been charged.
- 12.4 In addition to any requirements in the Acronis EULA, on cancellation or termination of your subscription:
- (a) you must un-install and stop using the Service Software; and
 - (b) you will need to pay any charge owing to us.

13 THIRD PARTY SUPPLIERS

- 13.1 We may use third party suppliers (including Acronis) to provide or contribute to elements of the Service ("**Third Party Suppliers**"). Our Third Party Suppliers may require you to agree to additional terms and policies (such as the Acronis EULA described in clause 8.7) in order to continue receiving the Services. We will notify you of such terms and policies and how to accept them. If you do not accept those terms and policies you may not be eligible to continue to receive the Services and we may:
- (a) suspend the Services until you choose to accept those terms and policies; or
 - (b) terminate the Services,
- immediately on notice to you.
- 13.2 If one of our Third Party Suppliers stops providing us with such elements of the Service, we may terminate the Services by giving you as much written notice as reasonably practicable. If we cancel your Services under this clause, we may migrate you to a reasonably comparable service. If we transfer you to a reasonably comparable service and this has more than a minor detrimental impact on you, you may cancel your new service without having to pay any early termination charges for that service.

14 SERVICE LEVELS

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WHAT ARE OUR SERVICE LEVELS?

- 14.1 Unless a Service Level Exclusion applies, we will aim to ensure that the Telstra Data Protect Application has a Service Availability of 99.5% in each calendar month. You acknowledge that this Service Level is a target only and we will not be responsible for failing to meet it. “Service Availability” means the total number of minutes in a calendar month minus the number of minutes that the Telstra Data Protect Application is not available in a calendar month, divided by the total number of minutes of that calendar month.

WHAT ARE OUR SERVICE LEVEL EXCLUSIONS?

- 14.2 We will not be liable for failure to meet a Service Level which:
- (a) is caused by you or as a result of your negligence or breach of an obligation including any breach by you or your end users of obligations under Our Customer Terms;
 - (b) is caused by you or your end users failing to follow our reasonable directions;
 - (c) arises from you not providing us with full and accurate information about the incidents that you report to us;
 - (d) is attributable to an event not reasonably within our control or our Third Party Service Provider’s control;
 - (e) results from any problems or unavailability of internet connectivity or your internal network;
 - (f) occurs during scheduled downtime;
 - (g) without limiting any of the above, is due to any of the following faults:
 - (i) faults caused by hardware, software or systems used by you (such as due to incompatibility), unless such hardware, system, software is provided by us as part of the Telstra Data Protect Application;
 - (ii) faults caused by you or any person accessing the Telstra Data Protect Application using your password or access key or by your invitation, including by negligence or as a result of wilful damage by you or any such person;
 - (iii) faults with your equipment that have not been caused by us; or
 - (h) is a result of emergency or unplanned outages required by Telstra to perform urgent or unplanned maintenance work. We aim to provide you with as much notice (through the Telstra Apps Marketplace or otherwise) as possible before an emergency or unplanned outage.

15 DEFINITIONS

- 15.1 In this section of Our Customer Terms, the following terms have the meanings given below:

Acronis has the meaning given to it in clause 2.2.

Acronis EULA has the meaning given to it in clause 8.7.

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Administrator means an end user who is designated as an administrator in the Telstra Data Protect Application.

Backup Target Devices has the meaning given to it in clause 9.1.

Business Day means any day other than a weekend or public holiday in State or Territory where you are located.

Business Hours means 9am – 5pm AEST on Business Days.

EULA has the meaning given in clause 8.7.

Installation Service has the meaning given to it in clause 9.1.

Service Availability has the meaning given in clause 14.1

Service Level means a service level set out in clause 14.1

Service Level Exclusion means an exclusion to the Service Levels set out in clause 14.2

Service Software has the meaning given in clause 8.1.

Telstra Data Protect Application has the meaning given to it in clause 2.2.

Third Party Suppliers has the meaning given to it in clause 13.1.

User Licence means a licence for an individual user to use the Service Software and Telstra Data Protect service. Each User Licence is subject to the EULA.