



## ENTERPRISE SUBSCRIPTION AGREEMENT (ESA)

<b>Customer Company Name:</b>									
<b>Contract Address:</b> <i>(All fields are required)</i>	Contact Name: Email: Address: Address : City, State: Zip/Postal Code: Country:								
<b>SAN of this Agreement:</b> <i>(To be filled in by Symantec upon signature)</i>							E	S	A
<b>Effective Date of this Agreement:</b> <i>(To be filled in by Symantec upon signature)</i>									
<b>End Date of this Agreement:</b> <i>(To be filled in by Symantec upon signature)</i>									

This Symantec Enterprise Subscription Agreement ("Agreement") is entered into by and between Symantec, as defined below ("Symantec") and the customer named above ("Customer") and sets out the terms and conditions under which Customer may obtain Solution Bundles under the terms and conditions of this Agreement. This Agreement incorporates the terms the End User License Agreements (EULAs) for each Licensed Software product included in the ESA Offerings (the "Master Terms"). Capitalized terms not otherwise defined in this Agreement shall have the meanings given in the Master Terms. Symantec and Customer agree as follows:

### 1. DEFINITIONS

- 1.1 "Add-on Products" means an individual Licensed Software offering, and corresponding Support, made commercially available by Symantec for purchase under the Enterprise Subscription Agreement purchase model as of the date of Customer's Order.
- 1.2 "Affiliate" of a party means an entity controlled by, under common control with, or controlling such party, where control is denoted by having fifty percent (50%) or more of the voting power (or equivalent) of the applicable entity.
- 1.3 "Certificate" means the machine-generated certificate sent to Customer by Symantec to confirm a purchase of the applicable ESA Offerings.
- 1.4 "Channel Partner" means any entity authorized and identified by Symantec to participate in the Symantec Enterprise Subscription Agreement purchase model in the region in which Customer is located.
- 1.5 "ESA Offerings" means collectively, Solution Bundles and Add-on Products.
- 1.6 "ESA Operations Guide" means Symantec's then-current guide detailing the operational details of the Enterprise Subscription Agreement purchase model, as updated by Symantec from time-to-time.
- 1.7 "ESA Website" means the website where Symantec will make available current information about the Enterprise Subscription Agreement purchase model and the ESA Offerings available for purchase thereunder. The ESA Website is located at <http://go.symantec.com/ses> or any successor address designated by Symantec.
- 1.8 "Order" means Customer's purchase order with sufficient detail to allow Symantec to accept Customer's order and accurately invoice Customer for the items ordered under this Agreement or Channel Partner's purchase order placed with Symantec on behalf of Customer for the items ordered under this Agreement.
- 1.9 "Product Exhibit" means an exhibit or addendum to this Agreement, executed between the parties, which supplements or modifies these terms and conditions with terms applicable to eligible Solution Bundles. Each Product Exhibit is incorporated into this Agreement by this reference. The first such Product Exhibit is attached as Exhibit A.



- 1.10 **"Solution Bundle"** means the Symantec-designated combination of individual Licensed Software offerings, and corresponding Support, that form a particular product bundle and are available under the Enterprise Subscription Agreement purchase model. The Solution Bundle(s) that are eligible for Customer's purchase under this Agreement are as identified on a Product Exhibit.
- 1.11 **"Subscription Period"** means the period of time, during the Term, during which Customer is authorized to use the ESA Offerings as indicated on the applicable Certificate. The **"Initial Subscription Period"** starts on the Effective Date identified above; a **"Renewal Subscription Period"** starts on the day following the end of the prior Subscription Period, if Customer places a renewal Order.
- 1.12 **"Support"** means Symantec's then-current annual 24x7 maintenance and support offering designated for ESA Offerings. Support is provided and performed subject to Symantec's then-current terms, policies and processes.
- 1.13 **"Use Level"** means the unit of measurement, i.e. meter, by which Symantec measures, prices and sells the right to use a given ESA Offering in effect at the time an Order is placed, as indicated in the applicable Product Exhibit, Certificate, or EULA.

## 2. LICENSE GRANT

During each Subscription Period, Symantec grants Customer a term-based license to use, and allow its Affiliates to use, the ESA Offerings, in the Deployment Territory (as defined below) and in the quantities and at the Use level Ordered under this Agreement solely in accordance with the terms of this Agreement. The Use Level and any additional use rights and restrictions for a Solution Bundle and/or Add-on Product identified in a Product Exhibit override anything to the contrary in a EULA. Customer may allow consultant(s) or outsourcer(s) to use or access ESA Offerings to deliver dedicated services to Customer, so long as such use is consistent with Customer's own permitted scope of use, and is compliant with these terms. Customer agrees to be responsible for any access and use of ESA Offerings by Affiliates, and/or consultants or outsourcers.

## 3. ORDERS AND PRICING

- 3.1. Initial Order and Companywide Coverage.** Upon execution of this Agreement, Customer agrees to place, for itself and any Affiliates, if applicable, an initial Order for its chosen Solution Bundle(s). The Initial Order shall be for the quantity necessary to cover Customer's entire company within the Deployment Territory (**"Companywide"**) whether the Solution Bundle is measured by user, server, device, or such other applicable Use Levels. Customer shall maintain such Companywide coverage at its-then current levels for each Renewal Subscription Period during the Term. If Customer elects to purchase Solution Bundles on behalf of Customer's Affiliates, Companywide coverage is also required for each such Affiliate for each Subscription Period.
- 3.2. Add-on Products.** During the Term, and provided Customer has first purchased a Solution Bundle, Customer may place an Order for Add-on Products. Customer's right to use Add-on Products and corresponding Support will co-terminate to expire as of the end of Customer's then-current Subscription Period. Customer may place a renewal Order for Add-on Products during the Term for additional Subscription Periods, as further described below. For each Subscription Period during the Term, Customer agrees to maintain Companywide coverage for any Add-on Products it purchases.
- 3.3. Renewal Orders.** During the Term and before the expiration of the then-current Subscription Period, if Customer elects to renew the ESA Offerings, Customer must place an Order to renew such ESA Offerings for the applicable renewal Subscription Period. Customer may also elect to submit an Order to renew Add-on Products for a renewal Subscription Period, provided it also renews a Solution Bundle for the same Subscription Period.
- 3.4. Additional Quantity/True Up.**
- 3.4.1. True-up Products.** During a Subscription Period, unless a Product Exhibit indicates true-up is not available for a particular ESA Offering, Symantec grants Customer the right to make and use additional licenses of the ESA Offerings (**"True-Up Products"**) and access Support for such True-Up Products, through the end of the then-current Subscription Period. Subject to Section 3.6, True-Up Product fees will be a percentage of the fees charged for the initial Order and will not vary based on when Customer actually deploys the True-up Product during a Subscription Period.
- 3.4.2. True-Up Worksheet/True-Up Order.** Customer agrees to submit a true-up worksheet (**"True-Up Worksheet"**), on an annual basis and signed by an authorized signatory, detailing the quantity of each True-Up Product used during the



prior Subscription Period. Customer shall submit the True-up Report to its Channel Partner or directly to Symantec at LicenseCompliance@symantec.com: (i) before each renewal Subscription Period, if Customer is renewing for an additional Subscription Period, or (ii) within ten (10) business days after the end of its final Subscription Period under this Agreement. If Customer used True-Up Products during the Subscription Period, it shall submit a corresponding Order for such True-Up Products. If Customer did not use True-Up Products during a Subscription Period, it agrees to submit a True-Up Worksheet detailing zero quantity of True-Up Products. Symantec's then current form of True-Up Worksheet is available in the ESA Operations Guide.

**3.4.3. True-up Cap.** Notwithstanding the foregoing, if at any time during a Subscription Period, the number of True-Up Products meets or exceeds ten percent (10%) of the quantity of licenses of ESA Offerings purchased by Customer at the beginning of the Subscription Period, then Customer will, within thirty (30) days, submit a True-Up Worksheet and corresponding Order for all un-purchased True-Up Products. Customer must also submit an annual True-Up Worksheet, as outlined above.

**3.5. SAN Requirement.** "Symantec Agreement Number" or "SAN" means the contract identification number assigned by Symantec on the face of this Agreement. Customer agrees to include the applicable SAN number on all of its Orders (initial, renewal, and true-up Orders) and True-up Worksheets placed under this Agreement.

**3.6. Pricing and Payment Terms.** For any renewal Order or true-up Order placed during the Term, Symantec agrees to provide substantially similar pricing to Customer's Channel Partner to allow Channel Partner to provide substantially similar pricing to Customer as on the Initial Order, however Customer's actual pricing and payment terms for the ESA Offerings shall be as agreed between Channel Partner and Customer.

#### **4. TERRITORY**

**4.1. Ordering Territory.** Customer's permitted territory for ordering ESA Offerings ("Ordering Territory") is the country in which Customer's contract address is located, as indicated in this Agreement.

**4.2. Deployment Territory.** Unless otherwise agreed in writing by Symantec, Customer's permitted territory for installation and use of the ESA Offerings ("Deployment Territory") is the country in which Customer's contract address is located, as indicated in this Agreement.

#### **5. AFFILIATE ORDERING**

A Customer's Affiliate located within the Ordering Territory ("Authorized Affiliate"), who wishes to own licenses and hold Support in its own name may execute an Affiliate Participation Addendum referencing this Agreement. Authorized Affiliate(s) shall receive its own Affiliate SAN. The Subscription Period(s) for an Authorized Affiliate(s) will be based on the start and dates identified in the Affiliate Addendum and not based on the start and end dates in this Agreement.

#### **6. TERM AND TERMINATION**

**6.1. Term.** This Agreement shall become effective as of the Effective Date and shall remain in effect for a term of three (3) years ("Term"), except as further described in this section. The Term is comprised of the Initial Subscription Period and two Renewal Subscription Periods, subject to Customer placing a renewal Order(s) prior to the beginning of each Renewal Subscription Period. If Customer does not place such renewal Order(s) prior to the beginning of the first or second Renewal Subscription Period(s), this Agreement expires at the end of the first or second year, respectively. Upon expiration of the Term, and subject to the availability of the Symantec Enterprise Subscription Agreement purchase model, Customer and Symantec, upon written amendment, may agree to renew this Agreement or may sign a new agreement to allow Customer's continued participation in the Enterprise Subscription Agreement purchase model. Customer's payment and true-up reporting obligations shall survive the expiration or termination of this Agreement.

**6.2. Termination.** This Agreement expires automatically with any expiration or termination of the Master Terms. The termination rights in the Master Terms extend to this Agreement.

#### **7. GENERAL**



The terms of this Agreement are personal to Customer and are non-assignable by Customer without Symantec's prior written consent. The terms of this Agreement are confidential and shall not be disclosed by Customer to third parties without Symantec's prior written consent. Subsequent modifications to this Agreement shall be made in writing and must be duly signed by authorized representatives of both parties or they shall be void and of no effect. The terms of this Agreement and the Master Terms shall apply in that Order of precedence, in the event of any conflict between such documents. Together such terms are the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersede any previous or contemporaneous agreement, proposal, commitment, representation, or other communication whether oral or written between the parties regarding such subject matter. This Agreement prevails over any conflicting or additional terms of any purchase Order, Ordering document, acknowledgement or confirmation or other document issued by Customer, even if signed and returned. All notices required to be sent under this Agreement shall be in writing addressed to the party's address referenced in this Agreement. The signatories below represent that they are duly authorized to sign this Agreement on behalf of their respective companies.

Agreed and Accepted as of the Effective Date:

**Symantec Signature**

<b>Symantec Corporation</b> 350 Ellis Street Mountain View, CA 94043 USA
Signature:
Printed Name & Title:
Date Signed:

**Customer Signature**

Signature:
Printed Name & Title:
Date Signed:

**Signature Instructions:**

Please submit Customer-signed agreement to Regional Contract Admin at [Contracts\\_AMS@symantec.com](mailto:Contracts_AMS@symantec.com)

Please visit <http://go.symantec.com/ses> to ensure that you are signing the most current version of this agreement.



## ENTERPRISE SUBSCRIPTION AGREEMENT

### **Attachment 1:** **Product Exhibit**

**1. Solution Bundle:** SYMC ENTERPRISE SOLUTION 1.0 (SES)

**2. Use Level and Definition:** Per User.

For SES, “**User**” means an individual person who is authorized by Customer to use and/or benefit from the use of the Licensed Software, or is the person who actually uses any portion of the Licensed Software.

**3. Additional Solution Bundle Use Rights:**

Customer may use each individual Licensed Software product included in SES for up to the number of Users as indicated within the applicable Certificate(s).