

Cohesity Program Terms & Conditions

COHESITY, INC. (TOGETHER WITH ITS AFFILIATES, “**COHESITY**”) AGREES TO PERMIT YOU, AS A PROSPECTIVE COHESITY CUSTOMER THAT MEETS THE BELOW ELIGIBILITY REQUIREMENTS (“**YOU**”, “**YOUR**”, OR “**CUSTOMER**”), TO REGISTER FOR OR PARTICIPATE IN A COHESITY-SPONSORED INCENTIVE PROGRAM (A “**PROGRAM**”), ONLY IF YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS (“**T&CS**”), WHICH SHALL BE DEFINITELY EVIDENCED BY YOUR REGISTRATION FOR A PROGRAM, YOUR SUBMISSION OF A CLAIM UNDER A PROGRAM, OR BY SUCH OTHER CONTRACT FORMATION MECHANISM RECOGNIZED UNDER APPLICABLE LAW. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT TAKE ANY PART IN A COHESITY PROGRAM.

Additional Terms & Conditions:

1. **Program Rules.** You agree to be bound, in addition to these T&Cs, to all terms, conditions, eligibility requirements and other rules published or applied by Cohesity from time to time in respect of a Program (collectively the “**Program Rules**”). You agree that any reward, payment, or other incentive offered in connection with a Program is subject at all times to You correctly and timely registering for such Program, compliance with these T&Cs, and compliance with all of the Program Rules in effect from time to time. Incentives offered through such Programs to You are personal to You and cannot be transferred or combined with other offers. Programs may not be made available to all persons and may not be available in all locations. Cohesity may use third parties to administer a Program in whole or part, and You acknowledge and agree that Cohesity may require You to register with, provide personal data to, and use, third party services in order to participate in a Program.

2. **Payments & Incentives/Rewards.** If this Program entails the provision of certain commercial incentives (“**Incentives**”) the payment to You of any monies or distribution of other rewards, (which in all cases shall be provided by way of discounts and/or credits flowed through the Cohesity-authorized channel partner through which You choose to purchase), (a) Cohesity is the sole and final arbiter of whether You (or any other person) are entitled to any such Incentives/payments/rewards under the Program and (b) if an Incentive/payments/rewards relates to a particular Cohesity transaction (e.g. an incentive calculated as a percentage of a Cohesity registered deal), then Cohesity shall be entitled in its full discretion to ‘claw back’ such Incentive/payments/rewards, in whole or part, in the event the status of said transaction changes, if non-compliance with these T&Cs or the Program Rules is discovered, if You were ineligible to participate or to receive the Incentive/payments/rewards, or for any other reason in Cohesity’s sole discretion. You are responsible for all taxes, including income taxes, arising from Your participation in a Program

3. **Warranties.** You represent and warrant that (a) if participating in a Program in the course of, or in any way connected to, your employment (or if you are using an employer’s equipment) You have received express prior written consent from your employer(s) to accept, participate in and attend the Program; (b) You are not a government official, a government contractor, public sector employee or contractor, or candidate for political office; (c) there is no contractual, ethical or legal restriction on Your participation in the Program, and such participation does not create any conflict of interest; (d) You will comply with all applicable laws, including without limitation anti-bribery laws applicable in any jurisdiction where You do business and the U.S. Foreign Corrupt Practices Act, and will refrain from any action that might be a violation of applicable anti-corruption laws (including making corrupt payments); (e) any payments or rewards furnished by Cohesity under a Program shall not be paid or given to any other person, firm, corporation or other entity, except in payment for a lawful bona fide business purpose authorized by these T&Cs and the Program Rules; (f) You are not relying on any representation or promise not contained in the T&Cs or Program Rules; and (g) You have not offered to pay or give, or authorized any third party to pay or give, and will not offer to pay or give, and will not authorize any third party to pay or give, any money, gift, or any other thing of value, directly or indirectly to any government official or employee; public sector personnel, any political party or official or employee thereof, or any candidate for political office, in order to obtain or retain any business, or secure any improper advantage.

4. **Relationship with Cohesity.** You are and will remain independent from Cohesity, and nothing in these T&Cs or the Program Rules will be construed as making You an employee, agent, partner or joint venturer of Cohesity. You do not have the authority to bind Cohesity to any obligation or contract, and shall not without Cohesity’s prior written consent attempt to do so or represent to any third party that You have such authority or are connected with Cohesity in any way.

5. **Confidentiality.** Non-public Cohesity information marked ‘confidential’, ‘proprietary’, or with a similar legend, or which a reasonable person would understand from the circumstances of disclosure to be confidential in nature, shall be treated as confidential, and not used or disclosed except as expressly authorized by Cohesity in writing.

6. **Consent to Processing Personal Data.** You hereby provide all consent(s) required by law to permit Cohesity to (a) process Your personal data, and (b) provide Your personal data to third party providers, in each case as reasonably necessary for the administration of, or for Your participation in, Program(s). You also consent to being contacted by Cohesity for the purpose of communicating with You about current or future Programs You may qualify for or be interested in, and to otherwise process, store, and use Your personal data in accordance with Cohesity’s privacy policy available at [cohesity.com/agreements](https://www.cohesity.com/agreements). Cohesity shall use appropriate technical and organisational measures designed to ensure the security and integrity of Your personal data while in Cohesity’s possession. Further details of how Cohesity processes personal data, and how to opt out, can be found in Cohesity’s privacy policy available at <https://www.cohesity.com/privacy/>.

7. **LIABILITY.** COHESITY SHALL NOT BE LIABLE FOR ANY DIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES OF ANY KIND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING COHESITY’S INCENTIVES/PAYMENT OBLIGATIONS, IN NO EVENT SHALL COHESITY’S AGGREGATE CUMULATIVE LIABILITY FOR CLAIMS ARISING OUT OF A PROGRAM EXCEED USD \$100. THE PROGRAMS ARE OFFERED “AS IS” AND “AS AVAILABLE.” TO THE EXTENT PERMITTED BY LAW, YOU WAIVE ANY AND ALL CLAIMS AGAINST COHESITY ARISING OUT OF OR IN CONNECTION WITH THE PROGRAM.

8. **Assignment.** Any rights accruing to You in connection with a Program are personal and may not be assigned or transferred. All Cohesity's rights and powers in these T&Cs or a Program inure to Cohesity, its successors and assigns.

9. **Disputes.** These T&Cs and Your participation in a Program are governed by and construed in accordance with the laws of the State of California without regard to the conflicts of laws provisions. You consent to any controversy or claim arising out of or relating to these T&Cs being settled by arbitration in Santa Clara, California by one arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment on the arbitral award may be entered in any court having jurisdiction. The prevailing party will be entitled to receive from the non-prevailing party all costs, damages and expenses, including reasonable attorneys' fees. YOU EXPRESSLY HEREBY WAIVE ALL RIGHTS TO JURY TRIAL.

10. **Termination; entire agreement; waiver.** In the event of any conflict among these T&Cs, Program Rules and any other document, the T&Cs prevail, followed by the Program Rules, followed by other document(s). The published T&Cs and Program Rules (together with any other applicable written contracts relating to this subject matter and signed by an authorized Cohesity representative) represent the entire understanding and agreement of the parties with respect to the subject matter and supersede all other agreements. Cohesity reserves the right to terminate any person's participation in a Program due to fraud, misuse, or ineligibility, in Cohesity's sole discretion. Cohesity may amend these T&Cs or any Program Rules effectively immediately by publishing an amended version(s), and Your continued participation in a Program will signify consent to such amendment. Cohesity's failure to enforce its rights at any time for any period shall not be construed as a waiver of such rights. Cohesity may terminate or limit a Program at any time.

11. Where the Program consists of an event, activity, holiday or the performance of a service, You are solely responsible for complying with any booking or other conditions or instructions of the relevant third party provider or organiser and must be able to comply with any restrictions as to dates and times in relation to the Program and any other eligibility restrictions imposed by the relevant third party provider or organiser. The contract in relation to any such event, activity, holiday or service will be directly between You and the relevant third-party provider or organiser and we will not be a party to that contract or have any liability in relation to its performance or non-performance, which shall be the sole responsibility of the relevant third party provider or organiser. We will not provide any form of insurance, including without limitation any public liability or cancellation insurance, in respect of any Program consisting of an event, activity, holiday or service. You warrant that you are in compliance with – and shall continue to comply with all applicable terms in Cohesity's Code of Business Conduct available at: <https://www.cohesity.com/legal/code-business-conduct/> and in any other Cohesity codes of conduct applicable to you, including without limitation the Channel Partner Code of Conduct. You must comply with all rules relating to COVID-19 applicable at the time and place of the Program, and accept that the Program may be cancelled at short notice or with no notice due to events including without limitation COVID-19.