



# Terms & Conditions

## Northgate Web Cloud Backup

Any references to "we", "us" and "our" refer to Northgate Web Ltd (trading as Northgate Web), a company registered in England and Wales with company number 9335114 and its registered office at 1<sup>st</sup> Floor, 32 Ropergate, Pontefract, WF8 1LY

All services provided by Northgate Web Ltd may be used for lawful purposes only. Transmission, storage or presentation of any information, data or material in violation of any United Kingdom laws or international treaties. This includes, but is not limited to: copyrighted material, material we judge to be threatening or obscene, or material protected by trade secret and other statute. The subscriber agrees to indemnify and hold harmless Northgate Web Ltd from any claims resulting from the use of service which damages the subscriber or any other party.

## Product Agreement

### General

This End User License Agreement, including the Privacy Policy and Terms of Service, which are incorporated herein by this reference and which you can access by clicking on each of the hyperlinks above (collectively, the "Terms"), are a binding contract between you and Northgate Web Ltd. ("Northgate Web Cloud Backup"). You may print the foregoing documents using the print function in your browser. You understand and agree that by installing, accessing, or using the software, products, services, applications and associated documentation and Enhancements (collectively, the "Northgate Web Cloud Backup Products"), you will be bound by these Terms. If you agree to these Terms on behalf of a business or organization, you represent and warrant that you have the authority to bind that business or organization to these Terms and your agreement to these Terms will be treated as the agreement of the business or organization. In that event, "you" and "your" will refer to and apply to the user of the Northgate Web Cloud Backup Products or that business or organization, as required by the context. If you do not agree with these Terms, Northgate Web Cloud Backup is not willing to license to you and you may not use the Northgate Web Cloud Backup Products.

### Your License

The Northgate Web Cloud Backup Products are licensed and not sold to you. During the term of your subscription, Northgate Web Cloud Backup grants to you a revocable, limited, non-transferable, non-exclusive license to use Northgate Web Cloud Backup Products, solely in connection with the backup of your data. Except for the limited license granted in these Terms, Northgate Web Cloud Backup and its licensors retain all right, title and interest in and to the Northgate Web Cloud Backup Products, all copies thereof, and all proprietary rights therein, including copyrights, patent, trademark and trade secret rights. You may not copy or distribute Northgate Web Cloud Backup Products, except to the extent that copying is necessary to use Northgate Web Cloud Backup Products for the purposes set forth herein. You may not reverse engineer, decompile, disassemble, modify, or create derivative works of Northgate Web Cloud Backup Products. You may not alter or modify any disabling mechanism which may be included in Northgate Web Cloud Backup Products. You may not assign, sublicense, rent, timeshare, loan, lease, or otherwise transfer Northgate Web Cloud Backup Products, or directly or indirectly permit any third party to copy Northgate Web Cloud Backup Products. You may not remove any proprietary notices (e.g., copyright and trademark notices) from Northgate Web Cloud Backup Products. You must reproduce the copyright and all other proprietary notices displayed on Northgate Web Cloud Backup Products and on each permitted backup or archival copy. All use of Northgate Web Cloud Backup Products shall be in accordance

with these Terms and its then-current documentation. You shall be solely responsible for ensuring that your use of Northgate Web Cloud Backup Products is in compliance with all applicable foreign, federal, state and local laws, rules and regulations.

## How It Works

Northgate Web Cloud Backup Products save a copy of each file that is automatically selected for backup and other files you designate for backup (your "Backed-up Data") to a server operated by Amazon. Northgate Web Cloud Backup Products automatically scan for changes or additions to the Backed-up Data and then periodically re-save a copy or a part of a modified file or create a copy of a newly designated file. For a complete list of the files Northgate Web Cloud Backup is backing-up for you, please refer to the Northgate Web Cloud Backup web console. You can check whether Northgate Web Cloud Backup is backing-up specific files by going to Northgate Web Cloud Backup Timeline located in your Computer, Web console, or from your mobile. If you are unable to locate your file, Northgate Web Cloud Backup is not backing-up that file. Your Backed-up Data may not be available or restorable if: (i) Northgate Web Cloud Backup has not completed copying your selected files or changed files; (ii) for files, folders, or disk drives that are not automatically backed-up, you do not manually select them for backup, or you unselect a file for backup; (iii) you delete a person from your Northgate Web Cloud Backup account; (iv) you move a file to a location on your computer that is not automatically scanned to select files for backup or you upgrade your operating system resulting in changes to your file mapping; (v) your computer is unable to access the internet or to Amazon s3 Storage; (vi) you fail to follow Northgate Web Cloud Backup's technical requirements, including upgrading the version of your Northgate Web Cloud Backup Products as required; or (vii) you terminate your license or fail to renew your subscription to Northgate Web Cloud Backup Products.

## Enhancements and Feedback

Enhancements. Northgate Web Cloud Backup may (i) automatically update the Northgate Web Cloud Backup Products installed on your computer without your prior notice, (ii) upgrade, enhance, change and modify (collectively, the "Enhancements") the Northgate Web Cloud Backup Products, or (iii) discontinue or retire the Northgate Web Cloud Backup Products or any aspect or feature of the Northgate Web Cloud Backup Products, including the types of files and data that are backed-up (not every file on your computer is backed-up) or the availability of Northgate Web Cloud Backup Products on any particular device or communications service at any time and from time-to-time in its sole discretion. Any Enhancements made available to you will be subject to these Terms. Northgate Web Cloud Backup will use reasonable efforts to provide notice of material changes to the Northgate Web Cloud Backup Products or changes to these Terms by posting them to [Product Agreement](#). It is your responsibility to periodically check Northgate Web Cloud Backup's web site to inform yourself of any such modifications. Changes to these Terms, which may be made in Northgate Web Cloud Backup's sole and exclusive discretion, will be effective upon acceptance of these Terms (as described herein) for new subscriptions and effective for all existing users thirty (30) calendar days after the posting of the new Terms on Northgate Web Cloud Backup's web site at [Product Agreement](#). You agree to be bound to these Terms, as modified. If you do not agree to the modified Terms you are not permitted to use the Northgate Web Cloud Backup Products and must terminate your subscription immediately.

## Feedback

You may provide feedback to Northgate Web Cloud Backup with respect to the Northgate Web Cloud Backup Products. Northgate Web Cloud Backup may use feedback for any purpose without obligation of any kind. To the extent a license is required under your intellectual property rights to make use of the feedback, you hereby grant Northgate Web Cloud Backup an irrevocable, non-exclusive, perpetual, royalty free license to use the feedback in connection with Northgate Web Cloud Backup's business, including enhancement of the Northgate Web Cloud Backup Products.

## Term

Term and Termination. These Terms and your license to the Northgate Web Cloud Backup Products will commence at the time and on the day you install, access, or use the Northgate Web Cloud Backup Products, whichever is earlier. These Terms, your license and your subscription to the Northgate Web Cloud Backup Products will automatically terminate or expire upon the earlier of (i) non-renewal, cancellation, or expiration of your subscription or your failure to pay invoices when due, (ii) Northgate Web Cloud Backup's discontinuance of the Northgate Web Cloud Backup Products, or (iii) failure to comply with these Terms. If any third party makes an intellectual property infringement claim relating to the Northgate Web Cloud Backup Products, Northgate Web Cloud Backup reserves the right to immediately terminate your subscription to the affected Northgate Web Cloud Backup Products. NORTHGATE WEB CLOUD BACKUP MAY, IN ITS SOLE DISCRETION, DENY USE OF AND ACCESS TO ALL OR ANY PORTION OF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, INCLUDING SUSPENDING OR TERMINATING YOUR LICENSE AND ACCOUNT WITH NORTHGATE WEB CLOUD BACKUP IF YOU ARE USING THE NORTHGATE WEB CLOUD BACKUP PRODUCTS IN A MANNER NOT INTENDED OR IN VIOLATION OF LAW.

## Effect of Non-Renewal or Termination

Upon any non-renewal, termination, or expiration of your subscription to the Northgate Web Cloud Backup Products (i) the license granted herein will automatically and immediately terminate and you will have no further right to possess or use the Northgate Web Cloud Backup Products, (ii) the Northgate Web Cloud Backup Products may be disabled by Northgate Web Cloud Backup without notice to you, and (iii) you will no longer have the right to access or retrieve your Backed-up Data. You acknowledge and agree that Northgate Web Cloud Backup's policy is to automatically delete all of your Backed-up Data upon non-renewal, termination, or expiration of your subscription to the Northgate Web Cloud Backup Products and that it is solely your responsibility to seek another source for your backup needs.

## Disclaimer of Warranties; Indemnification; Limitation of Liability

Northgate Web Cloud Backup Products. THE NORTHGATE WEB CLOUD BACKUP PRODUCTS MAY CONTAIN OR NORTHGATE WEB CLOUD BACKUP MAY PROVIDE TO YOU THIRD PARTY HARDWARE, PRODUCTS, SOFTWARE, OR PROGRAMMING, OR YOU MAY OBTAIN THIRD PARTY HARDWARE, PRODUCTS, SOFTWARE, OR PROGRAMMING FROM THIRD PARTIES DIRECTLY, ("THIRD PARTY COMPONENTS"). THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, ALL THIRD PARTY COMPONENTS AND ALL BETA SOFTWARE ARE PROVIDED "AS IS," "WHERE IS," "AS AVAILABLE," "WITH ALL FAULTS" AND, TO THE FULLEST EXTENT PERMITTED BY LAW, WITHOUT WARRANTY OF ANY KIND. NORTHGATE WEB CLOUD BACKUP AND ITS LICENSORS DISCLAIM ALL WARRANTIES WITH RESPECT TO THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, THE THIRD PARTY PRODUCTS AND ALL BETA SOFTWARE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE, AND ANY WARRANTIES REGARDING QUIET ENJOYMENT, QUALITY OF INFORMATION, SECURITY, RELIABILITY, TIMELINESS, AVAILABILITY OF BACKED-UP DATA AND PERFORMANCE OF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS. NORTHGATE WEB CLOUD BACKUP DOES NOT WARRANT THAT THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, THIRD PARTY COMPONENTS, OR BETA SOFTWARE WILL MEET YOUR REQUIREMENTS, OR THAT THE OPERATION OF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, THIRD PARTY COMPONENTS, OR BETA SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, THIRD PARTY COMPONENTS, OR BETA SOFTWARE WILL BE CORRECTED, OR THAT ENCRYPTION ALGORITHMS, ASSOCIATED KEYS AND OTHER SECURITY MEASURES WILL BE SECURE OR EFFECTIVE. YOU UNDERSTAND AND AGREE THAT YOUR INSTALLATION, USE AND ACCESS OF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, THIRD PARTY COMPONENTS AND ALL BETA SOFTWARE IS AT YOUR SOLE DISCRETION AND RISK AND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER, SOFTWARE AND THE LOSS OF BACKED-UP DATA THAT RESULTS FROM THE USE THEREOF. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY NORTHGATE WEB CLOUD BACKUP SHALL CREATE ANY ADDITIONAL NORTHGATE WEB CLOUD BACKUP WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF NORTHGATE WEB CLOUD BACKUP'S OBLIGATIONS HEREUNDER. YOU HEREBY WAIVE



ANY AND ALL CLAIMS, NOW KNOWN OR LATER DISCOVERED, THAT YOU MAY HAVE AGAINST NORTHGATE WEB CLOUD BACKUP AND ITS AFFILIATES, SUPPLIERS AND LICENSORS ARISING OUT OF YOUR USE OF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, THIRD PARTY COMPONENTS AND BETA SOFTWARE. THE NORTHGATE WEB CLOUD BACKUP PRODUCTS MAY BE USED TO ACCESS AND TRANSFER INFORMATION OVER THE INTERNET. YOU ACKNOWLEDGE AND AGREE THAT NORTHGATE WEB CLOUD BACKUP DOES NOT OPERATE OR CONTROL THE INTERNET AND THAT (I) VIRUSES, WORMS, TROJAN HORSES, AND OTHER UNDESIRABLE DATA, OR SOFTWARE, OR (II) UNAUTHORIZED USERS (E.G., HACKERS) MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE YOUR DATA, WEB SITES, COMPUTERS, OR NETWORKS. NORTHGATE WEB CLOUD BACKUP SHALL NOT BE RESPONSIBLE FOR SUCH ACTIVITIES. YOU ARE SOLELY RESPONSIBLE FOR THE SECURITY AND INTEGRITY OF YOUR DATA AND SYSTEMS.

### **Beta Applications.**

Northgate Web Cloud Backup may designate certain Enhancements and new releases of the Northgate Web Cloud Backup Products as "Beta Software." Beta Software is not ready and is not intended for use in a production environment. At this early stage of development, operation of the Beta Software may be unpredictable and lead to erroneous results. You acknowledge and agree that (i) the Beta Software is experimental in nature and has not been fully tested, (ii) the Beta Software may not meet your requirements or perform as intended, (iii) use of the Beta Software may not be uninterrupted, error free, or free of faults, (iv) your use of the Beta Software is for the sole purpose of evaluating and testing the product and providing feedback to Northgate Web Cloud Backup, and (v) you shall inform your employees, staff members and other users regarding the nature of the Beta Software. Your use of the Beta Software is and shall be subject to these Terms.

### **Indemnification; Limitation of Liability**

YOU ARE SOLELY RESPONSIBLE AND LIABLE FOR YOUR CONDUCT, YOUR DATA, AND YOUR BACKED-UP DATA RELATED TO THE NORTHGATE WEB CLOUD BACKUP PRODUCTS. YOU AGREE TO INDEMNIFY, DEFEND AND HOLD NORTHGATE WEB CLOUD BACKUP, AND ITS OFFICERS, DIRECTORS, SHAREHOLDERS, AFFILIATES, SUPPLIERS AND LICENSORS HARMLESS FROM AND AGAINST ANY AND ALL LOSS, COST, DAMAGE, LIABILITY AND EXPENSE (INCLUDING ATTORNEYS' FEES, EXPERT FEES AND OUT-OF-POCKET EXPENSES) ARISING OUT OF, RESULTING FROM, OR IN CONNECTION WITH YOUR BREACH OF THESE TERMS, YOUR USE OF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, OR YOUR BACKED-UP DATA. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL NORTHGATE WEB CLOUD BACKUP OR ITS AFFILIATES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY COST TO PROCURE SUBSTITUTE SERVICES OR DATA, OR ANY DIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, EXEMPLARY, OR ANY OTHER DAMAGES, INCLUDING DAMAGES FOR PERSONAL INJURY, LOST PROFITS, LOSS OF DATA AND BACKED-UP DATA, BUSINESS INTERRUPTION, OR LOST REVENUES, ARISING OUT OF YOUR USE OR INABILITY TO USE THE NORTHGATE WEB CLOUD BACKUP PRODUCTS, THIRD PARTY COMPONENTS, OR BETA SOFTWARE, OR YOUR USE OF DATA OR FILES STORED THEREIN, EVEN IF NORTHGATE WEB CLOUD BACKUP HAS BEEN ADVISED ABOUT THE POSSIBILITY OF SUCH DAMAGES (WHETHER SUCH DAMAGES ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR OTHERWISE)). IN ANY CASE AND WITHOUT LIMITING THE FOREGOING, THE ENTIRE LIABILITY OF NORTHGATE WEB CLOUD BACKUP AND ITS AFFILIATES, SUPPLIERS AND LICENSORS FOR ALL DAMAGES OF EVERY KIND AND TYPE (WHETHER SUCH DAMAGES ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) SHALL BE LIMITED TO THE LICENSE FEES PAID BY YOU TO NORTHGATE WEB CLOUD BACKUP IN THE 30 CALENDAR DAYS PRIOR TO THE DAMAGES ARISING. IF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS ARE PROVIDED TO YOU WITHOUT CHARGE, THEN NORTHGATE WEB CLOUD BACKUP SHALL HAVE NO LIABILITY TO YOU WHATSOEVER. THE FOREGOING TERMS SET A LIMIT ON THE AMOUNT OF DAMAGES PAYABLE AND ARE NOT INTENDED TO ESTABLISH LIQUIDATED DAMAGES. YOU EXPRESSLY RECOGNIZE AND ACKNOWLEDGE THAT SUCH LIMITATION OF LIABILITY IS AN ESSENTIAL PART OF THIS AGREEMENT AND IS AN ESSENTIAL FACTOR IN ESTABLISHING THE PRICE OF THE NORTHGATE WEB CLOUD BACKUP PRODUCTS.

Some jurisdictions do not allow the exclusion of incidental or consequential damages, or the limitation on how long an implied warranty lasts, so some of the foregoing terms may not apply to you.

### **Governing Law and Arbitration**

These Terms shall be governed, construed and enforced in accordance with the laws of the United Kingdom without reference to conflicts of law principles. The parties agree that the exclusive jurisdiction of any actions arising out of, relating to, or in any way connected with these Terms, shall be in the state or federal courts, as applicable, located in the City of London, UK.

Any dispute, controversy, or claim arising out of or relating to this Agreement, including the arbitrability of the matter or the formation, interpretation, scope, applicability, termination, or breach thereof, shall be referred to and finally determined by arbitration in accordance with the JAMS Streamlined Arbitration Rules and Procedures, or JAMS International Arbitration Rules, if the matter is deemed "international" within the meaning of that term as defined in the JAMS International Arbitration Rules. The arbitration shall be administered by JAMS, shall take place before a sole arbitrator, and shall be conducted in London, UK. If the JAMS International Arbitration Rules apply, the language to be used in the arbitral proceedings will be English. Judgment upon the arbitral award may be entered by any court having jurisdiction. This section shall apply to and require arbitration of all disputes, controversies and claims, regardless of whether such disputes, controversies, or claims concern a single individual, entity, or other person, multiple individuals, entities, or other persons, or classes of individuals, entities, or other persons.

### **Export**

You shall not export, directly or indirectly, the Northgate Web Cloud Backup Products to any country for which the United Kingdom requires an export license or other governmental approval. You shall not use the Northgate Web Cloud Backup Products to store, backup, or distribute child pornography or other illegal files or data. You shall defend, indemnify and hold Northgate Web Cloud Backup harmless from and against any and all damages, fines, penalties, assessments, liabilities, costs and expenses (including attorneys' fees, expert fees and out-of-pocket expenses) arising out of any claim that you are storing child pornography or other illegal files or data, or that the Northgate Web Cloud Backup Product was exported or otherwise shipped or transported by you in violation of applicable laws, rules and regulations.

### **Termination and Fair Use Policy**

NORTHGATE WEB CLOUD BACKUP SHALL HAVE THE ABSOLUTE AND UNILATERAL RIGHT IN ITS SOLE DISCRETION TO DENY USE OF AND ACCESS TO ALL OR ANY PORTION OF NORTHGATE WEB CLOUD BACKUP PRODUCTS OR SERVICES TO USERS WHO ARE DEEMED BY NORTHGATE WEB CLOUD BACKUP TO BE USING THE NORTHGATE WEB CLOUD BACKUP PRODUCTS OR SERVICES IN A MANNER NOT REASONABLY INTENDED BY NORTHGATE WEB CLOUD BACKUP OR IN VIOLATION OF LAW, INCLUDING BUT NOT LIMITED TO SUSPENDING OR TERMINATING A USER'S ACCOUNT WITH NORTHGATE WEB CLOUD BACKUP AND THE LICENSE TO USE THE NORTHGATE WEB CLOUD BACKUP PRODUCTS OR SERVICES.

Northgate Web Cloud Backup Products or Services are designed to serve the needs of particular types of users, such as individual consumers or small businesses. If you have purchased a Northgate Web Cloud Backup Product or Service that is inappropriate for your actual usage, for example if Northgate Web Cloud Backup believes that you are using our service for business or commercial use, Northgate Web Cloud Backup will require you to switch to an appropriate Northgate Web Cloud Backup Product or Service. This may result in you having to pay Northgate Web Cloud Backup additional fees for use of the appropriate product or to terminate your purchased Northgate Web Cloud Backup Products or Services. For example: If Northgate Web Cloud Backup believes that you are using our home service for business or commercial use, Northgate Web Cloud Backup has the sole discretion to amend your service to our Business service which may require you paying additional fees or termination of your account. Northgate Web Cloud Backup determines business use as excessive backup of media files e.g. photos or videos in excess of 500GB. Northgate

Web Cloud Backup may, in our sole discretion and from time to time, establish or amend general operating practices to maximize the operation and availability of Northgate Web Cloud Backup Products or Services and to prevent abuses. As part of these practices, we reserve the right to monitor our system to identify excessive consumption of network resources and to take such technical and other remedies as we deem appropriate. Your consumption of Northgate Web Cloud Backup Products or Services may be deemed excessive if, within any month, your usage greatly exceeds the average level of monthly usage of Northgate Web Cloud Backup 's customers, generally. We monitor the usage of our heaviest Unlimited account users, a dynamic margin is calculated based upon averages which, should a user fall into, we may require them to cease backup or move onto a business account. In the event you are deemed to have violated this policy, we reserve the right to offer an alternative pricing plan or Northgate Web Cloud Backup Product or Service that will permit you to continue to use Northgate Web Cloud Backup Products or Services. Although violations of this policy have been infrequent, we reserve the right to terminate or suspend your license to use Northgate Web Cloud Backup Products or Services and any license to use the Northgate Web Cloud Backup Software, without prior notice in the event of a violation of this policy. If Northgate Web Cloud Backup believes that you are breached our Fair Use Policy and the user has not switched to a Business Service, Northgate Web Cloud Backup will allow the user 14 days from date of first communication to retrieve their data before deletion of the users account and data. 1st notice will be sent 14 days before account deletion and 2nd notice will be sent 2 days before account deletion. All communications will be sent to the email address attached to the users account. Northgate Web Cloud Backup has a zero tolerance policy and will immediately terminate accounts that violate the law in any way, including storing, publishing or sharing material that's fraudulent, defamatory, misleading, or that violates the privacy or infringes the rights of others.

## General

These Terms, which incorporate the **Privacy Policy** and **Product Agreement**, each of which are contained within this document, constitute the entire understanding of the parties and supersede all prior and contemporaneous written and oral agreements with respect to the subject matter hereof. In particular, if you are a current licensee of Northgate Web Cloud Backup Products, these Terms shall supersede your existing license agreement and that agreement shall be of no further force or effect. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the construction or interpretation of these Terms. As used in these Terms, the words "include" and "including," and variations thereof, will not be deemed to be terms of limitation, but rather will be deemed to be followed by the words "without limitation." If one or more of the provisions herein shall be held invalid, illegal, or unenforceable in any respect, the validity, legality and enforcement of the remaining provisions shall not be affected or impaired. The failure to enforce or the waiver by either party of a default or breach of the other party shall not be considered to be a waiver of any subsequent default or breach. If you or Northgate Web Cloud Backup cannot perform its obligations under these Terms because of any act of God, accident, strike, court order, fire, riot, war, failure of third party equipment, or any other cause not within the affected party's reasonable control and that could not be avoided through the exercise of reasonable care and diligence (a "Force Majeure Event"), then the non-performing party will: (i) promptly notify the other party; (ii) take reasonable steps to resume performance as soon as possible; and (iii) not be considered in breach during the duration of the Force Majeure Event. If a Force Majeure Event continues for five (5) or more business days, Northgate Web Cloud Backup may terminate your subscription to the Northgate Web Cloud Backup Products and these Terms by providing written notice to you.

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY HEREUNDER IS DETERMINED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, ALL LIMITATIONS OF LIABILITY AND EXCLUSIONS OF DAMAGES SET FORTH HEREIN SHALL REMAIN IN FULL FORCE AND EFFECT.

The following provisions shall survive termination or expiration of this Agreement: Account Access and Ownership; Effect of Non-Renewal or Termination; Disclaimer of Warranties; Indemnification; Limitation of Liability; Governing Law and Arbitration; and Additional Terms. Any inconsistency between these Terms in English and these terms in any other language shall, to the fullest extent permitted by applicable law, be resolved by reference to the English version.

## Terms of Service

These terms of service ("Terms") are a legal agreement between you, either an individual or a single legal entity ("You" or "you"), and Northgate Web Ltd. Northgate Web Ltd operates the Northgate Web Cloud Backup online services and are referred to in these Terms as "Northgate Web Cloud Backup." These Terms govern your use of any Northgate Web Cloud Backup online services ("Services"), the Northgate Web Cloud Backup website ("Site"), the client software distributed with this Agreement and any other software provided by Northgate Web Cloud Backup, including any updates and any accompanying written documentation ("Software"). Collectively, the Software, the Site and the Services may be referred to as the "Products." By using any Products, you agree to these Terms. If you do not agree to these Terms, then do not use the Products. If you agree to these Terms on behalf of a legal entity, you represent that you have the authority to bind that legal entity to these Terms.

You must register with Northgate Web Cloud Backup to use the Services, and you agree to keep your registration information accurate, complete and up-to-date as long as you continue to use the Services. Northgate Web Cloud Backup: Home currently offers various fee-bearing accounts offering various storage capacities. If you sign-up for a Paid Account, you agree to pay the fixed subscription and variable usage-based fees with a 30-day money back period, if any, for the account type you have selected and agree to any applicable restrictions, including quotas on the amount of storage you are allowed to use. If you exceed any quota allocated to your account, you agree that Northgate Web Cloud Backup may restrict your ability to backup further data until you reduce your storage usage or upgrade your account.

You are responsible for keeping your passwords secure, and you agree not to disclose your passwords to any third party. You are solely responsible for any activity that occurs under your user names and accounts, including any sub-accounts. If you lose your passwords or the encryption keys for your accounts, you may not be able to access your backup data. You must notify Northgate Web Cloud Backup immediately of any unauthorized use of your accounts or any other security breach related to the Service. If Northgate Web Cloud Backup determines that a security breach has occurred or is likely to occur, Northgate Web Cloud Backup may suspend your accounts and require you to change your user names and passwords.

You agree that Northgate Web Cloud Backup's collection, use and disclosure of your personal information, backup data or any other data will be governed by Northgate Web Cloud Backup's Privacy Policy, which is incorporated into these Terms by reference.

Subject to these Terms, Northgate Web Cloud Backup grants you a limited, non-exclusive, non-transferable and revocable license to access the Site and use the Services and Software. You may install and use the Software in executable form only on the number and type of devices that are specified in the then-current documentation for your account type as described on the Site or as specified in other transaction documentation provided by Northgate Web Cloud Backup or an authorized reseller. You acknowledge that certain third party code may be provided with the Software and that the license terms accompanying that code will govern its use.

You acknowledge that Northgate Web Cloud Backup or third parties own all right, title and interest in and to the Products, including all intellectual property rights. Except for the license granted in these Terms, Northgate Web Cloud Backup and its licensors retain all rights in the Products, and no implied licenses are granted to you.

You specifically agree that you will not, nor will you permit another person to:

- sublicense, lease, rent, loan, transfer or distribute any portion of the Products;
- modify, adapt, translate or create derivative works from the Products;
- decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Products; or
- remove, obscure, or alter any trademark, copyright or other proprietary rights notices displayed in the Software or on the Site.

You are solely responsible for your conduct related to the Service and any backup data you store on the Service. You specifically agree that you will not use the Products to:

- violate any laws or regulations;
- infringe the intellectual property or other rights of third parties;
- transmit any material that contains viruses or other harmful computer code or files such as Trojan horses, worms or time bombs.

Northgate Web Cloud Backup respects the intellectual property of others and requires that users of the Service do the same. When you use the Products, you may not upload, store, share, display, post, e-mail, transmit or otherwise make available any material that infringes any copyright, patent, trademark, trade secret or other proprietary rights of any person or entity. In appropriate circumstances, Northgate Web Cloud Backup will terminate the accounts of infringers.

You agree to defend, indemnify, and hold Northgate Web Cloud Backup, its suppliers, resellers, partners and their respective affiliates harmless from and against any claims, liabilities, damages, losses and expenses, including reasonable attorney fees and costs, in connection with:

- your use of the Products
- your violation of these Terms;
- your violation of any third party right, including any intellectual property right; or
- any claim that use of your backup data caused damage to a third party.

This indemnity obligation will survive the termination or expiration of your account and these Terms.

Northgate Web Cloud Backup reserves the right at any time to modify, suspend, or discontinue providing the Service, in whole or in part, without notice. While not obligated to do so, Northgate Web Cloud Backup will use commercially reasonable efforts to notify you of any such action by sending you an e-mail, an in-client message or by posting relevant information on the Site.

Northgate Web Cloud Backup reserves the right to modify these Terms at any time, and each such modification will be effective upon posting on the Site. All material modifications will apply prospectively only. Your continued use of any Products following any such modification constitutes your agreement to be bound by the modified Terms. To stay informed of any changes, please review the most current version of these Terms posted on the Site. If you do not agree to be bound by these Terms, you must stop using the Products immediately.

These Terms, and any posted revisions, remain in effect as long as you continue to maintain an account or use the Services. You may terminate your account at any time, for any reason, by following the instructions on the Site and discontinuing use of the Products.

Northgate Web Cloud Backup may terminate your account and these Terms after (30) days and without notice if you fail to renew your subscription, fail to pay any fees or invoices when due or otherwise fail to comply with these Terms.

On termination or expiration of your account or these Terms, you will no longer have the right to continue to use the Software and the Services, and you will no longer be able to access and restore your backup data. Also, you specifically agree that Northgate Web Cloud Backup has no obligation to provide you or anyone else with a copy of your backup data and may automatically purge your backup data from Northgate Web Cloud Backup systems.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE EXCLUSIONS SET FORTH BELOW MAY NOT APPLY TO YOU.



YOU SPECIFICALLY AGREE THAT YOUR USE OF THE PRODUCTS IS AT YOUR SOLE RISK, AND THE PRODUCTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. NORTHGATE WEB CLOUD BACKUP, ITS SUPPLIERS, RESELLERS, PARTNERS AND THEIR RESPECTIVE AFFILIATES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN PARTICULAR, NORTHGATE WEB CLOUD BACKUP, ITS SUPPLIERS, RESELLERS, PARTNERS AND THEIR RESPECTIVE AFFILIATES MAKE NO WARRANTY THAT (A) THE PRODUCTS WILL MEET YOUR REQUIREMENTS; (B) YOUR USE OF THE PRODUCTS WILL BE TIMELY, UNINTERRUPTED, SECURE OR ERROR-FREE; (C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF THE PRODUCTS WILL BE ACCURATE OR RELIABLE; AND (D) ANY DEFECTS OR ERRORS IN THE PRODUCTS WILL BE CORRECTED.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE PRODUCTS IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. YOU FURTHER ACKNOWLEDGE THAT THE PRODUCTS ARE NOT INTENDED OR SUITABLE FOR USE IN APPLICATIONS THAT COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SOME OF THE EXCLUSIONS OR LIMITATIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

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You acknowledge that use of the Products may be subject to the export and import laws of the United Kingdom and other countries. You agree to comply with all export and import laws and regulations. In particular, you acknowledge that the Products may not be exported or re-exported to any U.K. embargoed countries or to anyone on the U.K. Treasury Department's list of Specially Designated Nationals or the U.K. Department of Commerce Denied Persons List or Entity List. By using the Products, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use the Products for any purposes prohibited by U.K. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons.

These Terms and the relationship between you and Northgate Web Cloud Backup will be governed by the laws of the United Kingdom, excluding its conflicts of law provisions. You agree to submit to the personal and exclusive jurisdiction of the courts located in London to resolve any dispute or claim arising from these Terms. As to intellectual property rights, you specifically agree that Northgate Web Cloud Backup may file an action in any jurisdiction to protect or enforce its rights. The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms.



These Terms constitute the entire agreement between you and Northgate Web Cloud Backup and completely replace any prior agreements between you and Northgate Web Cloud Backup in relation to the Products. If any part of these Terms is held invalid or unenforceable, that portion will be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions will remain in full force and effect. The failure of Northgate Web Cloud Backup to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. You agree that, except as otherwise expressly provided in these Terms, there will be no third-party beneficiaries to this agreement. You agree that any claim or cause of action related to these Terms or the use of the Products must be filed within one (1) year after the cause of action arose or be forever barred.

You may not assign or transfer any of your rights or obligations under these Terms to a third party without the prior written consent of Northgate Web Cloud Backup. Northgate Web Cloud Backup may freely assign this Agreement.