

Enrollment Agreement

Important - Read Carefully.

Veeam has developed and desires to advertise, promote, and distribute its proprietary computer software products. Partner (You) desires to obtain the right to act as an independent reseller of Veeam Products, with the non-exclusive right to market, promote and resell Veeam Products. This VEEAM PARTNER ENROLLMENT AGREEMENT (the "Agreement") is a legally binding agreement between You and Veeam setting forth the terms and conditions governing the participation in the Veeam Partner Program. By accepting this Agreement, You agree to be bound by the terms and conditions of this Agreement.

1. Contracting Entity

- A. If You are located in the Americas, this Agreement is between You and **Veeam Software Corporation**.
- A. If You are located outside the Americas, this Agreement is between You and **Veeam Pty Ltd.** for the APAC region, or **Veeam Software France SARL** for the EMEA Southern region, or **Veeam Software UK Limited** for the EMEA Northern region, or **Veeam Software Germany GmbH** for the EMEA Central region and the Emerging Market region.

In this Agreement, **Veeam Software Corporation, Veeam Pty Ltd., Veeam Software France SARL, Veeam Software UK Limited, and Veeam Software (Germany) GmbH** are individually and collectively referred to as "**Veeam**".

2. Definitions

- "**End User Information**" means all information provided by, or at the direction of, Veeam about or pertaining to customers who purchase Veeam products for their own use ("End Users"), including, but not limited to, name, address, contact information, license and install base data, and support renewal information.
- "**Effective Date**" means the date that Veeam formally authorizes You to join the Veeam Partner Program ("Pro-Partner Program" or "Program").
- "**Materials**" means, collectively, the Products and any other materials provided by Veeam to You under the Program.
- "**Partner**" or "**You**" means the business entity identified in the "Company Name" field of the Veeam Partner application form You completed.
- "**Product(s)**" means an unlock key, serial number, authorization key or number, download link, or similar code or mechanism that enables the customer to access, use or continue to use, the Veeam proprietary computer software products, in object code form only.
- "**Program Level**" means, for those Programs in which membership is divided into more than one level, the level of Program membership into which Veeam has admitted Partner, based on Partner's fulfillment of certain criteria as defined in the Program Guide.
- "**Territory**" means the country in which Partner's principal place of business is located, as identified by Partner on the Veeam Partner application form.

3. Appointment and Territory

- A. Veeam appoints Partner as a reseller of Products solely within the Territory and in accordance with the terms of the Program Guide. Partner shall resell only to End Users who are located in their Territory. For Partners located in the European Union, such obligation is without prejudice to Partner's freedom to sell Products to End Users within the European Union.
- B. Partner shall obtain Products solely through distributors authorized by Veeam to deal in the Territory. For Partners June 2012- Veeam Partner Enrollment Click through Agreement (International) located in the European Union, such obligation is without prejudice to Partner's freedom to obtain Products from other distributors authorized by Veeam to deal in the European Union.
- C. Use of Products by End Users is subject to the terms of the accompanying Veeam End User License Agreement available at www.veeam.com/eula.html ("EULA") and Partner shall ensure that the EULA is presented to customers in a full and unmodified format.

4. Partner Guidelines

- A. The Veeam Partner program guide together with program guides applicable for any incentive program which Partner has been authorized to participate in (collectively the "**Program Guide**") as posted and updated from time to time on the Veeam "**Pro-Partner Program**" portal website at <http://propartner.veeam.com> (or such other site as may be specified by Veeam), are hereby incorporated in full into this Agreement by reference. Partner shall at all times comply with any additional terms and conditions contained in the Program Guide.
- B. Updates by Veeam to the Program Guide shall take effect upon posting to the Pro-Partner Program website. If any updates to the Program Guide are unacceptable to the Partner, the Partner's sole and exclusive remedy shall be to exercise its termination rights hereunder.
- C. Veeam will regularly review the Program Guide compliance and will adjust the Partner's Program Level accordingly and as needed during the term. After such adjustment, the Partner shall be obligated to comply with the requirements of its new Program Level.

5. Use Products; Materials; Proprietary Rights

- A. Partner's use of any discounted internal use software or not for resale ("NFR") licenses is subject to EULA.
- B. Shipment of all Products will be Electronic Shipment Delivery (ESD), unless otherwise noted. ESD means that all of the Products are in object code format only by means of electronic download from Veeam websites, and all serial numbers, licensing keys and activation instruments provided by email as part of the order fulfillment process.
- C. Veeam's Product(s) is licensed and not sold. Veeam shall solely own all rights, title and interest in and to the Products and Materials. Partner shall not remove or alter any copyright notices or other proprietary rights notices placed on or embedded in the Materials. Partner shall immediately notify Veeam of any infringing copy or reproduction of Materials, and Partner shall not distribute or assist in distributing such infringing copy or reproduction. Partner will do all other things reasonably requested by Veeam to protect Veeam's intellectual property rights in the Materials, including without limitation copyrights, patent rights, trademarks and trade secrets. Partner's use of Veeam's logos and trademarks shall be in accordance with Veeam trademark usage guidelines and as specified in the Veeam Style Guide available at <http://propartner.veeam.com/propartner/php/#hr-graphics.php> and all use by Partner of Veeam logos and marks (including any goodwill associated therewith) shall inure to the benefit of Veeam.

- D. Partner must comply with governing Laws and Veeam policies relating to Partner's advertising, marketing, and promotional activities and will not make unfair, misleading, inaccurate, exaggerated or false claims about the Products and/or Services.

6. Program Compliance; Partner Integrity

- A. Partner shall comply with governing Laws, including but not limited to the Foreign Corrupt Practices Act ("FCPA") and all US and international anti-bribery laws as applicable. Neither Partner nor any of its agents or employees may offer, pay, promise or authorize any direct or indirect payments of anything of value for the purpose of obtaining business to any government official (including any person holding an executive, legislative, judicial or administrative office, whether elected or appointed, or any official or employee of any public international organization, such as the United Nations or World Bank, or any person acting in any official capacity for or on behalf of such government, public enterprise or state-owned business), any political party or party official, any political candidate or any person or entity whom Partner knows or has reason to believe will give part of the payments to any of the previously mentioned categories of people. Should Partner June 2012- Veeam Partner Enrollment Click through Agreement (International) have any further questions about the FCPA, Partner may visit the Department of Justice's website at <http://www.usdoj.gov/criminal/fraud/fcpa>.
- B. Partner shall only export or re-export Products as permitted by this Agreement and all applicable export control Laws, including the United States Export Administration Act. All other exports are expressly prohibited.
- C. Partner shall comply with all Veeam policies and processes required under the Program, including the ethical conduct of business, as specified in the Program Guide.

7. Term and Termination

- A. **Term.** This Agreement shall commence on the Effective Date and will continue until terminated by either party as set forth herein. This Agreement may be terminated for material breach of any provision of this Agreement by either party, provided that written notice of the breach has been given to the breaching party and the breaching party has not cured the breach within fifteen (15) days after delivery of the notice. Additionally, either party may terminate this Agreement for any reason, with or without cause, upon thirty (30) days prior written notice to the other party.
- B. **Effect of Termination.** Notwithstanding any expiration or termination of this Agreement, Sections I, II, V, VI, VII, VIII, IX, X, XI, XII and XIII shall survive and remain in effect in accordance with their terms. Upon termination Partner shall cease all use of, and shall return to Veeam, all NFR licenses provided hereunder. Neither party shall be responsible to the other for any costs or damages resulting from the termination of this Agreement. Termination or expiration of this Agreement shall not relieve either party of obligations or liabilities incurred prior to such termination or expiration.

8. Warranty Disclaimer

EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN THE VEEAM PRODUCT EULA, VEEAM MAKES NO REPRESENTATIONS OR WARRANTIES TO PARTNER OF ANY KIND WITH RESPECT TO THE PROGRAM, THE PROGRAM GUIDE OR ANY PRODUCTS OR SERVICES PROVIDED HEREUNDER. TO THE FULLEST EXTENT PERMITTED BY MANDATORY LAW, VEEAM SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON- INFRINGEMENT.

9. Limitation of Liability

- A. IN NO EVENT SHALL VEEAM BE LIABLE TO PARTNER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST DATA, LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR ANY OTHER PECUNIARY LOSS ARISING IN ANY WAY OUT OF THIS AGREEMENT, WHETHER OR NOT VEEAM HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.
- B. IN NO EVENT SHALL VEEAM'S AGGREGATE LIABILITY TO PARTNER ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED ONE THOUSAND DOLLARS (US \$1,000). FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED IN THIS AGREEMENT.
- C. **TO THE MAXIMUM EXTENT PERMITTED BY LAW, AS PER SECTION XIII (E), the following applies:** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION IX (A) and (B) ABOVE, NOTHING IN THIS AGREEMENT SHALL OPERATE SO AS TO LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY; (i) IN NEGLIGENCE IN RESPECT OF DEATH OR PERSONAL INJURY; (ii) FOR FRAUDULENT MISREPRESENTATION OR FRAUDULENT CONCEALMENT.

10. Confidential Information

Each party acknowledge that, as a result of this Agreement, may gain certain access to certain Confidential Information of the other party. "Confidential Information" means any information and all documentation, including, but not limited to, June 2012- Veeam Partner Enrollment Click through Agreement (International) techniques, algorithms and processes and technical, business and marketing information, designated or marked by the party disclosing such documentation and information orally, visually or in writing (the "Disclosing Party") as "Confidential," or "Proprietary," or provided in a similar manner, or that the other party (the "Receiving Party") knows to be confidential, or should reasonably consider to be confidential under the circumstances of its disclosure, supplied by the Disclosing Party to the Receiving Party in connection with this Agreement.

During the Term and for a period of five (5) years thereafter, each Receiving Party agrees: (a) to hold the Disclosing Party's Confidential Information in strict confidence, using the same degree of (but no less than reasonable) care and protection that it exercise with its own Confidential Information of a similar nature; (b) not to directly or indirectly disclose or otherwise make available any Confidential Information of the Disclosing Party to a third party; and (c) not to copy or use Disclosing Party's Confidential Information for any purpose other than as necessary to fulfill such party's obligations or exercise its rights under this Agreement. Each party will disclose the other party's Confidential Information only to its employees with a need to know in order to fulfill such party's obligations hereunder and who have been informed of and have agreed to abide by the provision of this Section X. In addition, the Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party or as required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

The obligation of this Section X will not apply to Confidential Information if such information: (a) is publically available prior to or at the time of disclosure, or later becomes publicly available through no act of the Receiving Party; or (b) was, prior to disclosure hereunder, rightfully known to the Receiving Party (other than in connection with this Agreement) without confidentiality restriction; (c) is independently developed by the other party without breach of any confidentiality obligations. The parties agree and acknowledge that money damages may not be an adequate remedy for any breach of this Section X and that either party may, in its sole discretion, apply to any court of law or equity of competent jurisdiction for injunctive relief in order to prevent any such breach.

Unless otherwise expressly provided in this Agreement, Confidential Information is provided "as is". Neither party makes any warranty, express, implied or otherwise, with respect to the accuracy, completeness or performance of any Confidential Information. In no event will either party have any direct or indirect liability to the other party or any third party with respect to the use of, or inability to use, any Confidential Information. At Disclosing Party's request, Receiving Party will promptly return the Confidential Information and all copies or summaries thereof, in electronic or written form, to Disclosing Party, or, at Disclosing Party's option, certify in writing to the destruction of same.

11. Privacy Policy; Program Information & Trademarks

- A. All access and use of End User Information, whether by Partner or Veeam shall be in accordance with the Confidentiality provisions of this Agreement and Veeam's Privacy Policy posted at http://www.veeam.com/privacy_policy.html?ad=footer. The Veeam Marks defined below may be used solely in press releases or other public announcements and/or related marketing programs, materials as provided by Veeam. The Veeam Marks may not be used in any manner that express or might imply Veeam's affiliation, sponsorship, endorsement, certification, or approval, other than agreed by Veeam in writing. The Partner shall not use the Veeam Marks in association with its own or any third party trademarks in a manner that might suggest co-branding or otherwise create confusion as to ownership of the Veeam Marks. The Veeam Marks may not be included in any Partner or nonVeeam trade name, business name, domain name, product or service name, logo, trade dress, design, slogan or other trademark. Partner is hereby granted a non-exclusive, limited, terminable license during the term of this Agreement to use Veeam's trademarks, service marks, logos, or marketing material ("Marks") provided to Partner solely for the purpose of advertising, marketing, and promoting Veeam's products and solely in accordance with this Agreement, applicable law, and Veeam's policies related to use of its Marks.
- B. Partner consents to receiving Program-related information from Veeam as set forth in the Program Guide. Partner agrees that Veeam may reference Partner as a member of Veeam ProPartner Program using Partner's logo, without the prior written approval of the Partner, provided Veeam complies with the Partner's then current trademark guidelines as provided by the Partner. Partner also consents to Veeam using End User Information or Partner information provided by Partner to populate data on Veeam's license activation and support renewal portals as well as any other mechanisms developed by Veeam to aid in delivering Products and Services to customers.

12. Indemnification

- A. Indemnification by Veeam. Veeam shall, at its expense, defend Partner against any third party claim that a Product infringes any patent, trademark, copyright of a third party, or misappropriates a trade secret (but only to the extent that such misappropriation is not a result of Partner's actions) under the laws of the United States ("Infringement Claim"), and indemnify Partner from the resulting costs and damages awarded against Partner by a court of competent jurisdiction, or agreed in a settlement, to the third party making such Infringement Claim; provided that, Partner: (a) promptly notifies Veeam in writing of such Infringement Claim; (b) allows Veeam sole control of the defense and any related negotiations or settlement; and (c) provides to Veeam the information and assistance reasonably necessary to settle or defend such Infringement Claim. If it is adjudicated, or if Veeam reasonably believes, that a Product infringes any third party patent, trademark, trade secret, or copyright, then at Veeam's option and expense: (i) Veeam shall procure for Partner the right to continue using the Product or infringing part thereof as contemplated by this Agreement; (ii) Veeam shall modify or replace the Product or infringing part thereof to be reasonably equivalent and non-infringing; or (iii) Partner's license to use such Product as contemplated by this Agreement shall be terminated, Partner shall return the infringing Product. Nothing in the prior sentence shall limit Veeam's obligation to defend and indemnify Partner, provided that Partner replaces the allegedly infringing Product promptly upon Veeam making available alternate Product to Partner and discontinues using the allegedly infringing Product upon receiving Veeam's notice terminating the affected license.

- B. Veeam's obligations in this Section do not apply to any Infringement Claim arising from the: (a) use of a Product other than as specified in the applicable documentation; (b) use of a version other than the current version of the Product; (c) combination or use of the Veeam Product with materials not furnished by Veeam; or (e) modification of the Product by a third party or by Veeam according to instructions from Partner or a design furnished by Partner. Furthermore, Veeam shall have no indemnification obligation hereunder in the event Partner is otherwise in breach of any term of this Agreement.
- C. THIS AGREEMENT STATES THE SOLE LIABILITY OF VEEAM WITH RESPECT TO ANY INFRINGEMENT BY THE PRODUCTS OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT.

13. General Provisions

- A. **Audit Rights.** During the term of this Agreement, upon reasonable notice, not to exceed fifteen (15) days, Veeam will be entitled to audit Partner's records to verify Partner's compliance with: (a) all terms of this Agreement including but not limited to: territorial restrictions, program compliance, protection of proprietary rights, confidential information and payment obligations; and (b) any Veeam policies applicable to Partners. In the event an audit reveals that Partner is not in compliance, Veeam shall be entitled to immediately terminate Partner from Veeam Partner program and/or pursue all legal, injunctive and equitable remedies available. Any such audit will be performed at Veeam's expense during normal business hours and with full cooperation by Partner, provided further that Partner shall promptly reimburse Veeam for the cost of such audit if such audit reveals (1) any evidence that Partner has violated governing Laws, Program rules or Veeam policies, or (2) any other material breach of this Agreement. In addition to the foregoing, Partner shall be required to immediately reimburse Veeam for any and all underpayments and/or improperly obtained Program benefits, incentives or discounts uncovered by an audit or similar investigation.
- B. **Partner Indemnity.** Partner agrees to defend, indemnify and hold Veeam harmless from and against any loss, cost, fine, liability, claim or damage of any type, including attorneys' fees, of Veeam arising out of any third party claim, suit, or proceeding brought against Veeam based on: (a) any negligent act or omission by, or willful misconduct of Partner, its employees or agents, (b) any omission or inaccuracy in Partner's advertisements or promotional materials that relate to the Products, (c) any representation made by Partner relating to the Program or the Products or Services, or (d) Partner's performance of services related to the Program or the Products.
- C. **Independent Contractors.** The relationship of the parties under this Agreement is that of independent contractors. Neither party will be deemed to be an employee, agent, partner, franchisee or legal representative of the other for any purpose and neither will have any authority to create any obligation or responsibility on behalf of the other.
- D. **Notices.** Any notice regarding the terms of this Agreement must be sent by email to the current business manager for the party to whom such notice is being provided, and confirmed in writing by delivery in person, or sent by reputable air courier and/or express mail to: (a) if for Veeam, the address noted as Veeam's Global Headquarters address within the Veeam website to the attention of the General Counsel; and (b) if for Partner, at the headquarters address of Partner identified on the Veeam Partner application form. Notices will be deemed effective upon receipt of the confirmation.
- E. **Governing Law.** This Agreement will be governed by and enforced under the laws of the State of Ohio within the United States of America without reference to conflict of laws principles. The Parties agree that all disputes arising in any way out of this Agreement will be heard exclusively in, and the parties irrevocably consent to jurisdiction and venue, in the federal and state courts of the State of Ohio. In any action to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party will be entitled to recover its reasonable attorney's fees, costs, and other expenses.
- F. **Assignment.** Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Partner, whether voluntarily or by operation of law, without the prior written consent of Veeam. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns. Any assignment in violation of the foregoing will be null and void.

- G. Waiver and Severability.** Any waiver of the provisions of this Agreement must be in writing to be effective. If any provision in this Agreement is found to be invalid or unenforceable to any extent, the remaining terms of this Agreement will continue to be valid and enforceable to the fullest extent permitted by law.
- H. Rights of Third Parties.** Neither party intends any third party to have the right to receive the benefit of any provision of this Agreement and any governing Laws to the contrary, including any other law that provides rights to a third party, shall not apply to this Agreement.
- I. Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter hereof. To the extent of any conflict between the Program Guide and this Veeam Partner Enrollment Agreement, the Program Guide shall control. Other than the Program materials Veeam makes available from time to time on ProPartner website, no terms, provisions or conditions of any purchase order, acknowledgement or other business form that either party may use in connection with the transactions contemplated by this Agreement will have any effect on the rights, duties or obligations of the parties under this Agreement. Other than as supplemented by a click-through addendum enrolling Partner into one or more additional Program(s) where Veeam generally permits such additional enrollment, or for Veeam's updates to the Program Guide, this Agreement may not be amended, except by a writing signed by both parties.
- J. Veeam Partner Code of Conduct.** This Code of Conduct sets out the basic requirements of Veeam and its subsidiaries as to how all Veeam partners, including their permanent and temporary employees, independent contractors, suppliers, agents and/or downstream partners ("Partners" or "You") will conduct themselves in a legal and ethical manner. Veeam expects Partners to comply not only with all applicable laws, but also with this Code of Conduct. Veeam reserves the right to reasonably change the requirements of this Code of Conduct by giving reasonable notice to Partners. In such event, Veeam expects the Partner to accept those reasonable changes. If any change is unacceptable to the Partner, the Partner's sole and exclusive remedy shall be to exercise their termination rights under this Agreement.

The Partner declares herewith:

- Legal compliance
 - to comply with the laws of the applicable legal system(s).
- Prohibition of corruption and bribery
 - to tolerate no form of and not to engage in any form of corruption or bribery, including any payment or other form of benefit conferred on any government official for the purpose of influencing decision making in violation of law.
- Antitrust and Competition
 - to prohibit agreements or actions that reduce competition without benefiting consumers.
- Respect for the basic human rights of employees
 - to promote equal opportunities for and treatment of its employees irrespective of skin color, race, nationality, social background, disabilities, sexual orientation, political or religious conviction, sex or age.
 - to respect the personal dignity, privacy and rights of each individual.
 - to refuse to employ or make anyone work against his/her will.
 - to refuse to tolerate any unacceptable treatment of employees, such as mental cruelty, sexual harassment or discrimination.
 - to prohibit behavior including gestures, language and physical contact, that is sexual, coercive, threatening, abusive or exploitative.
 - to provide fair remuneration and to guarantee the applicable legal minimum wage.
 - to comply with the maximum number of working hours laid down in the applicable laws.