

# Pure Protect Terms Of Use

These Pure Protect Terms of Use ("**Terms**"), apply to the provision of a subscription service whereby Pure's proprietary software and services are provided to the End User on a consumption basis pursuant to these Terms (collectively "**Pure Protect**").

1. **ACCESS AND USE.** Subject to these Terms and the applicable quote, Pure grants to End User, and any third party that End User authorizes to perform services involving Pure Protect, solely for End User's benefit, a non transferable, nonexclusive, revocable right to: (a) access and use Pure Protect, and (b) download, install, and use, in executable object code format only, any Pure plug-in or software Pure deems necessary to for End User to utilize Pure Protect.

2. **THIRD PARTY SOFTWARE AND PRODUCTS.** End User may utilize Pure Protect with non-Pure, third party software products, services, or solutions (collectively, "**Third Party Products**"). End User acknowledges and agrees that: (a) End User is exclusively responsible for the procurement and maintenance of all Third Party Products; (b) Pure is not responsible for any Pure Protect support or maintenance issues to the extent those issues arise from any Third Party Products; and (c) End User's use of any Third Party Products is at End User's sole cost and expense.

3. **QUOTES.** Quotes may include, but not be limited to the following details: (a) the applicable Service Term; (b) Reserve Commitment; (c) pricing; and (d) any other use limitations associated with Pure Protect. Any Pure-approved modifications to these Terms shall be set forth in writing and agreed upon between either Pure and End User or the applicable reseller.

**4. LOVE YOUR PURE PROTECT GUARANTEE.** Except for subscriptions purchased through a Public Cloud Provider, the first Pure Protect subscription purchased by End User comes with a 30-day “money back” guarantee, under which End User may be eligible to receive a full refund for the applicable Pure Protect subscription, provided (a) End User must have enabled the Pure1® phone home feature, and (b) End User must have notified Pure within 30 days of Order acceptance to elect for a refund; and (c) must cease use of the Pure Protect subscription product. Refunds will be processed within 30 days following the End User’s final use of the Pure Protect subscription product. If End User has conducted an evaluation of the Pure Protect subscription product, then End User has had an opportunity to evaluate the applicable Pure Protect subscription product and is not eligible for this guarantee.

**5. SERVICE TERM.**

**5.1. Subscription Start Date.** Except as otherwise expressly set forth in a quote, the Service Term for all subscriptions commence upon Pure’s acceptance of the order.

**5.2. Renewal.** Subscriptions automatically renew, and End User will be invoiced for a 12-month auto-renewal, unless End User provides Pure and its authorized reseller written notice of its intent not to renew the subscription at least 60 days prior to the expiration of the then-current Service Term. In the event End User provides 60 days notice to Pure as described above and authorized reseller that it wishes not to auto-renew, End User may (i) provide notice of termination and will have 30 days after the Service Term to migrate data off of Pure Protect prior to Pure removing End User’s Pure Protect access; or (ii) provide notice of On-Demand continuation, where End User may continue utilizing Pure Protect after the Service Term and will incur On-Demand (at the On-Demand Rate) based on utilization.

**5.3. Expiration.** These Terms, and End User's rights to use Pure Protect terminate upon expiration of the applicable Service Term.

**5.4 Termination for Convenience.** End User may terminate a subscription for any reason and at any time, provided that End User: (a) provides Pure 60 days' prior written notice and (b) pays in full all Reserve Commitments outstanding from the date of termination through the end of the Service Term.

**5.5 Termination for Cause.** These Terms, and End User's rights to use Pure Protect, terminate immediately if (a) End User fails to make timely payments for the subscription to Pure or its authorized reseller; (b) voluntary or involuntary proceedings by or against End User are instituted in bankruptcy under any insolvency law, or a receiver or custodian is appointed for the End User, or proceedings are instituted by or against the End User for corporate reorganization or the dissolution of the End User, or if End User makes an assignment for the benefit of creditors; or (c) a party materially breaches any provision of these Terms or the Agreement and fails to cure such breach within 30 days from the date of such party's written notice to the other party. End User is only obligated to pay for Pure Protect utilization through the date of termination if the subscription is terminated for cause pursuant to Pure's uncured material breach as set forth in Section 5.5(c).

**5.6 Effect of Termination.** Upon any termination or expiration of a subscription, End User shall promptly: (a) discontinue use of Pure Protect; (b) pay all amounts due for Pure Protect for the duration of the Service Term, unless terminated for cause pursuant to Section 5.5(c); and (c) discontinue all use of Pure Protect. Notwithstanding anything to the contrary herein, any amounts prepaid through the date of termination are final and non-refundable.

**5.7 U.S. Federal and State Government End Users.** US Government End Users may terminate a subscription, upon no less than 30 day's prior written notice to Pure if the US Government End User terminates or suspends performance of its contract or applicable task order with the Pure authorized reseller for failing or refusing to fund or to secure appropriations to fulfill or fund its obligations under its contract with the Pure authorized reseller. Upon expiration or termination of a subscription, the US Government End User shall immediately discontinue use of Pure Protect. Notwithstanding anything to the contrary, any amounts paid to Pure for Pure Protect for periods prior to the termination date are final and non-refundable if the subscription is terminated pursuant to this Section.

**6. INCREASES TO RESERVE COMMITMENTS.** Reserve Commitments may be increased by the End User at any time during the applicable Service Term. However, End User acknowledges and agrees that Reserve Commitments shall not be reduced or canceled at any time during a Service Term.

**7. SUPPORT.** Pure Protect subscriptions are delivered with 365 X 24 x 7 support, as described in [Pure's Customer Support Guide](#).

## **8. FEE STRUCTURE AND INVOICING CADENCE.**

**8.1 Reserve Commitment Charges.** Reserve Commitments are a fixed charge, billed in advance at the corresponding Reserve Rate on either a monthly, quarterly, or annual basis.

**8.2 On-Demand Charges.** On-Demand usage is a variable charge, billed in arrears on a calendar quarterly basis unless otherwise agreed in writing, based on End User's average daily Logical Managed Capacity in excess of the Reserve Commitment, at the corresponding On-Demand Rate.

9. **TRANSMISSION OF PURE1 DATA REQUIRED.** Pure1 is an integral component of Pure's delivery of Pure Protect. End User acknowledges and agrees that Pure's ability to deliver any service level commitments is dependent on consistent Pure1 connectivity, and therefore, End User shall ensure that Pure1 Data transmission to Pure is not disabled.

10. **TITLE.** Pure and its suppliers exclusively retain all right, title, and interest in Pure Protect, and all intellectual property rights therein, including without limitation all patent, trademark, trade secret, know-how, trade name and copyright, whether registered or not registered. Pure and its suppliers reserve all rights not expressly granted herein, and no license or other implied rights of any kind are granted or conveyed except for the limited right to access and use Pure Protect, as described herein. Pure Protect remains Pure's sole and exclusive personal property, and End User shall not encumber, sell, or otherwise dispose of Pure Protect without having received prior written authorization from Pure.

## 11. **DEFINITIONS.**

11.1 **Logical Managed Capacity:** The total size of all the protected VMware VMs under management in Pure Protect //DRaaS, as collected from VMware vSphere, and reported in Pure1 in TiBs.

11.2 **On-Demand:** any utilization of a subscription, above and beyond the Reserve Commitment.

11.3 **On-Demand Rate:** the rate applicable to On-Demand usage.

11.4 **On-Demand Used:** the total amount of Logical Managed Capacity above the Reserve Commitment.

11.5 **Pure1 Data:** telemetry and metadata to Pure and subscription management tools in Pure1 for End User.

11.6 **Reserve Commitment:** As applied to Pure Protect, the minimum usage commitment of Logical Managed Capacity.

11.7 **Reserve Rate:** the amount charged for utilization of the Reserve Commitment.

11.8 **Service Term:** the term of the subscription, as set forth on the applicable quote or order.

11.9 **U.S. Government End User(s):** end Users that are part of a United States federal, state, or municipal government or agency.

11.10 **VM, VMs, VSphere:** As defined by VMware.

12. **GENERAL TERMS.** These Terms supplement the Pure End User Agreement (or other written agreement covering the same subject matter executed by Pure) for the applicable subscription purchased by End User. Capitalized terms not specifically defined in these Terms have the same meaning as in the End User Agreement. Pure reserves the right to update these Terms from time to time, as noted by the "Last Updated" date below.

Last Updated August 16, 2024