

## Cato Networks 2019 Partner Program Terms and Conditions

Are you currently a reseller of Cato Solutions (as define below)? If not, please apply for partnership by completing the registration form at <https://www.catonetworks.com/partners/#become-a-partner> so that a Cato representative can explain to you the process of becoming a Cato Solutions Reseller and a participant in the Cato Networks Partner Program (the “**Program**”).

If you are currently a certified reseller of Cato Solutions you are already eligible to participate in the Program.

By participating in the Program, the company or entity submitting the channel partner application (“**you**”, “**your**” or “**Channel Partner**”) agrees to be bound by these terms and conditions (the “**General Terms**”).

If you are a direct reseller of Cato Networks (“**Cato**” or “**we**”) and thus purchase Cato Solutions directly from Cato, then in any case of conflict between the terms of your reseller agreement (the “**Applicable Agreement**”) and these General Terms, the terms of your reseller agreement shall prevail.

If you purchase Cato Solutions via an authorized distributor of Cato Solutions, these General Terms are binding on you and Cato and are a pre-condition in order for you to be able to participate in the Program. By registering into the Program or participating in the Program you confirm your agreement to these General Terms.

Capitalized Terms not otherwise defined shall have the meanings ascribed to them herein below.

### **General Terms**

Unless otherwise specified by Cato, the General Terms and any Applicable Agreement to which you are a party shall govern your participation in the Program and subprograms, including marketing and incentive programs, if applicable. Please print a copy of these General Terms for your records.

Understanding these General Terms, and completing your Channel Partner application is only the first step to becoming a Cato Networks Partner Program participant. Only upon written notice from Cato approving your participation and providing you with portal access and tier designation, you will be deemed accepted into the Program. Some restrictions may apply when purchasing Cato Solutions via an authorized distributor. Although Cato authorized distributors are advised that Cato recommends honoring Program discounts, they are not legally bound to Cato to do so. Please discuss the Program with your applicable authorized distributor, and confirm that they are honoring your Program discount before providing resale services for such authorized distributor. All pricing arrangements with your authorized distributor shall be solely between you and your authorized dealer, and Cato shall not be liable for any such pricing arrangements.

NOTICE: By participating in the Program, you are expressly agreeing to comply with and be legally bound by these General Terms and any Applicable Agreement to which you are a party. If you do not agree to all of the terms of these General Terms, you must **NOT** register for or participate in the Program.

1. **Eligibility.** Cato may provide you, or you may receive, (i) access to Program-related websites, tools, and web-based applications (“**Partner Portal**”); and/or (ii) information, materials, and tools pertaining to Cato or the Program. Throughout your participation in the Program, you must (a) maintain good credit standing with Cato; and (b) maintain a current registration profile, including yearly updates, and (c) provide prompt, written notification to Cato of any changes that may affect your participation in the Program. It is your responsibility to protect your Partner ID number and password. Make sure you have a valid, primary email address on file with us throughout the term of your participation in the Program. Further you shall be required to act as an ethical, respectful, professional partner. Do not act inappropriately or in violation of law. If a transaction is incomplete or we believe it is fraudulent or breaks our rules, then we may take measures including but not limited to preventing your participation in the Program, subject to our sole discretion.

Please note: Occasionally we may provide new incentives to our Partners as part of the Program. We can change the terms of these General Terms at any time. We will let you know of any change by way of posting the updated General Terms on our website.

## **2. Certain Restrictions and Obligations.**

2.1. Channel Partner may only purchase Cato Solutions from Cato or from Cato authorized distributors, subject to these General Terms and any Applicable Agreement.

2.2. Except as otherwise expressly provided for in these General Terms or in any Applicable Agreement, Channel Partner shall not (and shall not allow any third party to): (i) copy, reproduce, sell, license (or sub-license), lease, loan, assign, transfer, or pledge the Cato Solutions or any part thereof, or otherwise permit any third party to do any of the foregoing; (ii) modify, disassemble, decompile, reverse engineer, revise or enhance or create any derivative works or otherwise merge or utilize all or any part of the Cato Solutions with or into any third party materials or components or attempt to access or discover the Cato Solution's source code; (iii) place the Cato Solutions or any component thereof onto a server so that it is accessible via a public network or use the Cato Solutions for timesharing or Service Bureau purposes; (iv) ship, transfer, or export the Cato Solution or any component thereof or use the Cato Solutions in any manner, prohibited by law, including without limitation to, sell, distribute, export or download Cato Solutions: (a) into (or to a national or resident of) Cuba, Iran, Iraq, Libya, North Korea, Sudan, Lebanon or Syria, (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals, (c) to any country to which such export or re-export is restricted or prohibited, or as to which the U.S. or Israeli government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval, or (d) otherwise in violation of any export or import restrictions, laws or regulations of the U.S. or Israel or any foreign agency or authority. By participating in the Program, Channel Partner agrees to the foregoing and warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list; (v) contest Cato's Intellectual Property Rights to the Cato IPR (as defined below); (vi) use the Cato Solutions that is installed on or embedded or included in any Hardware on any server or Hardware other than the Hardware as delivered by Cato or its distributor; (vii) remove or add any labels, notices or logos to the Cato Solutions, (viii) perform any act or be responsible to any omission that is illegal or in Cato's discretion jeopardizes, destabilizes, interrupts or encumbers the Cato Solutions or their servers and/or has a detrimental impact on Cato and/or Cato IPR; (ix) transmit or upload any spam, viruses, spyware or other harmful, infringing, illegal, disruptive or destructive content, messages or files; (x) use the Cato Solution to access blocked services in violation of any applicable laws and/or regulations (xi) upload to the Cato Solution or use the Cato Solution to send or store worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs; (xii) access any Cato Solution and/or its servers through or use with the Cato Solutions any unauthorized means, services or tools, including, without limitation, any data mining, robots, or similar automated means or data gathering and extraction tools, including, without limitation, in order to extract for re-utilization of any parts of the Cato Solutions; (xiii) interfere with or disrupt the integrity or performance of the Cato Solution and/or Cato's Network or the data contained therein (xiv) use the Cato Solution for any purpose other than as permitted by this Agreement; (xii) utilize the Cato Solutions including without limitation, for any related point of presence, servers and network, in any way which will result in the violation or circumvention of any applicable laws or regulations including, without limitation, those enforcing censorship, privacy, government authority restrictions or other; (xvi) directly or indirectly conduct any penetration testing (including to users' systems, network and/or servers) through or using the Solutions and/or their respective connectivity or networks; (xvii) use the Cato Solutions in a manner that does not comply with any restrictions and limitations set forth in these General Terms or any Applicable Agreement (including number of sites, users, and bandwidth volume,

and device limitations set forth therein); or (xiii) Abuse the Cato Solution in any way. "Abuse" shall mean and include any of the prohibited activity outlined in this section, including without limitation, violation or bad activity which is triggered by any device(s) connected to any End User account, including copyright infringement (e.g. host accesses pirated content via BitTorrent), email spamming (e.g. host connects to external SMTP servers and send spam emails) and network scanning (e.g. host scans external servers on the internet at large scale). Whether an Abuse occurred or not, shall reside with Cato's sole discretion. Upon such resolution by Cato, that an Abuse has occurred, Cato shall notify accordingly to End User to cease the Abuse immediately. Cato shall have the sole discretion to decide whether or not to suspend or block the End User Account. Cato shall use such remedy if and when such Abuse represents an imminent threat to the Cato's Network or if so directed by a court of competent authority. In such cases Cato will: (i) suspend the End User Account only to the extent reasonably necessary to prevent any harm to Cato's Network; (ii) use its reasonable efforts to promptly contact End User and give End User the opportunity to promptly change the configuration of its server(s) accordingly and/or work with End User to promptly resolve the issues causing the suspension of the End User Account; and (iii) reinstate any suspended part of the End User Account immediately after any issue as above-mentioned has been resolved.

- 2.3. Channel Partner shall promote, market and distribute access to the Cato Solutions using its best efforts to increase sales of the Cato Solutions. Channel Partner will, in relation to the Cato Solutions: (i) conduct business in a manner that reflects favorably at all times on Cato Solutions and the good name, goodwill, and reputation of Cato and the Cato Solutions; (ii) make no false or misleading representation with respect to the Cato Solutions; (iii) not publish or use any misleading or deceptive advertising material; (iv) make no representations with respect to the Cato Solutions that are inconsistent with the Cato MSA; and (v) shall comply with all applicable laws. All costs relating to the marketing and distribution of the Cato Solutions by Channel Partner shall be borne by Channel Partner except to the extent agreed otherwise in writing by the parties hereto.
- 2.4. As a prerequisite for any distribution, Channel Partner may distribute the Cato Solutions only to End Users bound by terms no less restrictive of End Users and no less protective of Cato and the Cato IPR (defined below) than the terms of the Cato MSA located at: <https://www.catonetworks.com/msa/>; as a condition precedent to distributing and activating the Cato Solutions.

### **3. Intellectual Property Rights**

All worldwide right, title and interest (including without limitation any and all Intellectual Property Rights, related goodwill and confidential and proprietary information) in or to the Cato Solutions, and the Trademarks and any other related materials and all enhancements, improvements and derivatives thereof ("**Cato IPR**") are owned exclusively by Cato or its licensors.

### **4. Disclaimer of Warranty**

CATO DOES NOT WARRANT THAT THE SOLUTIONS WILL BE UNINTERRUPTED OR ERROR-FREE.

THE SOLUTION IS NOT DESIGNED FOR USE WITH CRITICAL OR LIFE SAVING INFRASTRUCTURES, SYSTEMS THAT CONTAIN OR PROTECT AGAINST DANGEROUS OR HAZARDOUS MATERIALS OR FORCES, NATIONAL SECURITY PURPOSES OR NUCLEAR, CHEMICAL, OR BIOLOGICAL WEAPONS

### **5. Intellectual Property Indemnity**

Channel Partner shall defend, indemnify and hold Cato harmless from all losses and expenses incurred by Cato to the extent they arise out of: (i) breach of any provision of these General Terms by Channel Partner; (ii) Channel Partner's failure to ensure that all End Users agree to the terms of a Cato MSA; or

(iii) Channel Partner making representations or warranties regarding the Cato Solutions or agreeing to obligations to End Users or other third parties, other than representations, warranties and obligations provided in the Cato MSA.

## 6. Confidentiality

The Cato Solutions contain valuable trade secrets of Cato and any disclosure or unauthorized use thereof will cause irreparable harm and loss to Cato. Channel Partner expressly undertakes to retain in confidence and to require its employees to retain in confidence all information and know-how in respect of the Solutions and/or that are transferred to, or discovered by Channel Partner (“**Confidential Information**”). Channel Partner expressly undertakes to (i) limit dissemination of the Confidential Information solely to its employees who have a need to know and who are bound by obligations and restrictions as to confidentiality and Intellectual Property Rights no less restrictive on said employees and no less protective of Cato IPR and Confidential Information than the terms hereof; (ii) not disclose the Confidential Information to any third party; and (iii) not use the Confidential Information for any purpose other than as explicitly permitted herein.

## 7. Limitation of Liability

NEITHER CATO NOR CATO’S AFFILIATES, LICENSORS, SUPPLIERS, REPRESENTATIVES OR DISTRIBUTORS OR RESELLERS OR THEIR SHAREHOLDERS, MANAGERS, DIRECTORS, OFFICERS, AFFILIATES AND EMPLOYEES (“CATO AFFILIATE”) RESPECTIVELY BE LIABLE UNDER ANY LEGAL THEORY WHETHER CONTRACT, TORT OR OTHERWISE, FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, INCIDENTAL, CONSEQUENTIAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION, LOSS OF DATA INCLUDING ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOLUTION OR OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE CATO SOLUTIONS OR ANY PART THEREOF EVEN IF CATO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FOR THE AVOIDANCE OF DOUBT, CATO SHALL HAVE NO LIABILITY IN CONNECTION HERewith, INCLUDING WITHOUT LIMITATION, FOR ANY WARRANTY, INSTALLATION SERVICES, OR USE OF THE SOLUTION. IN THE EVENT THAT DESPITE THE AFOREMENTIONED LIMITATION OF LIABILITY ANY COMPETENT AUTHORITY WILL FIND CATO OR ANY CATO AFFILIATE OR ANY OF CATO’S LICENSORS, LIABLE, CATO’S AND/OR CATO AFFILIATE’S AND/OR CATO’S LICENSORS, AGGREGATE LIABILITY SHALL NOT EXCEED NOT EXCEED THE AMOUNT ACTUALLY PAID BY CHANNEL PARTNER FOR CATO SOLUTIONS DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT THAT GAVE RISE TO CATO’S LIABILITY. The parties agree that the limitations specified in this Section shall survive and apply even if any limited remedy specified in these General Terms is found to have failed of its essential purpose.

8. **Term.** These General Terms shall commence on the Effective Date and shall continue in effect until terminated in accordance with Section 9 below.

## 9. Termination

9.1. The Channel Partner’s participation in the Program, or the Program in its entirety, may be terminated by Cato for convenience without cause upon thirty (30) days written notice to Channel Partner of its intention to terminate. In the event of such termination by Cato and/or cancellation of the Program, these General Terms shall no longer apply, with no liability to Channel Partner for termination or cancellation of these General Terms by Cato, including without limitation, liability for damages on account of loss of income or for expenditures, loss of goodwill or business opportunity.

9.2. Upon termination or expiration of these General Terms, the following sections shall survive: 4, 5, 6, 7, 9.1, 9.2, 10, 11.

10. **Anti-Corruption and Privacy.** Channel Partner hereby represents, warrants and covenants that:

- 10.1. In carrying out its responsibilities under these General Terms, Channel Partner will not pay or give, offer or promise to pay or give, or authorize the promise, payment or giving directly or indirectly of any monies or anything of value to any person or firm employed by or acting for or on behalf of any governmental customer, any government official or employee, any political party, any employee of any political party, or any candidate for political office (in each case, a “**Covered Person**”), for the purpose of inducing or rewarding any favorable action by the customer or any official or employee of any government in any territory and in any commercial transaction or in any governmental matter contemplated by or arising out of or in any way related to the subject of these General Terms or the business of Cato. If Channel Partner was engaged in any activities in anticipation of these General Terms, Channel Partner has not previously paid or given, offered or promised to pay or give, or authorized the promise, payment or giving directly or indirectly of any monies or anything of value to any Covered Person, for the purpose of inducing or rewarding any favorable action by the customer or any official or employee of any government in any territory and in any commercial transaction or in any governmental matter contemplated by or arising out of or in any way related to the subject of these General Terms or the business of Cato. For the purposes hereof, “government” means any government, including any department, division, subdivision, agency, corporation or other instrumentality of a government.
- 10.2. No employee of Channel Partner or of any parent or subsidiary company or any person or entity that controls, is controlled by or is under common control with Channel Partner (“affiliates”) is an official or employee of a government in any territory (or any other during the term of these General Terms, unless such person obtains the prior written consent of Cato. No rights or obligations of, or services to be rendered by Channel Partner under these General Terms will be assigned, transferred or subcontracted to, and Channel Partner will not (and will not agree to) share or pay any commission to, any third party without the prior written consent of Cato. Channel Partner will ensure that all of its employees, agents, representatives or subcontractors involved in Channel Partner’s performance of these General Terms are informed of Channel Partner’s obligations under and the restrictions contained in this Section 10.
- 10.3. In the event Cato has reason to believe that a breach of any of the representations, warranties or covenants in this Section 10 has occurred or will occur, Cato may suspend Cato Solutions and withhold any other performance under these General Terms until such time as it has received confirmation to its satisfaction that no breach has or will occur.
- 10.4. In the event that (i) there is a breach of any of the representations, warranties or covenants in this Section 10, (ii) Cato has reason to believe that a breach of representations, warranties or covenants in this Section 10 has occurred or will occur, which belief has not been dispelled following commercially reasonable investigation thereof, or (iii) Cato has been informed that a governmental or quasi-governmental counter-corruption authority has reason to believe that a breach of any of the representations, warranties or covenants in this Section 10 has occurred or will occur, which belief Cato believes in good faith that it will not be able to dispel without undue delay or expense, Cato at its election may, notwithstanding any other provision of these General Terms, at any time cancel or terminate these General Terms by written notice of cancellation or termination to Channel Partner (without further delivery of Cato Products and Cato Solutions and any other performance under these General Terms by Cato).
- 10.5. Cato will not be liable to Channel Partner for any claim, loss or damage whatsoever related to its decision to withhold delivery or other performance under this Section 10. Channel Partner shall indemnify and hold Cato harmless against any and all claims, losses or damages arising from or related to breach of this Section 10 and the related termination of these General Terms.
- 10.6. In no event will Cato be obligated under these General Terms to take any action or omit to take any action that Cato believes, in good faith, would cause it to be in violation of any U.S.

laws, including the Foreign Corrupt Practices Act, or the laws of any other jurisdiction to which Cato is subject, including counter-corruption laws.

- 10.7. Channel Partner shall comply with all applicable privacy laws and policies and ensure that all required consents are obtained from data subjects in respect of all collection, retention, transfer and processing of personally identifiable information.

## 11. Miscellaneous

- 11.1. It is expressly agreed that the relationship between the parties shall be that of independent contractors. Under no circumstances shall the relationship between the parties constitute a joint venture, partnership or agency of any kind. Channel Partner shall not have the right, power or authority to enter into any agreement, grant any promise, provide any warranties or representations or make any undertaking or commitment on behalf of Cato in any manner whatsoever.
- 11.2. These General Terms shall be governed and interpreted in accordance with the laws of England and Wales, without giving effect to principles of conflicts of law. The parties agree that the United Nations Convention on Contracts for the International Sales of Goods and the Uniform Computer Information Transactions Act are specifically excluded from application to these General Terms. Any litigation relating to the formation, interpretation or alleged breach of or any other matter in respect of these General Terms must be brought exclusively in the courts having jurisdiction in London, England, and Channel Partner irrevocably consents to the jurisdiction of such courts. In any action to enforce or interpret these General Terms, the prevailing party shall be entitled to recover, in addition to any other amounts awarded, reasonable legal and other related costs and expenses, including attorneys' fees.
- 11.3. To the extent there are conflicting provisions regarding your purchases from Cato or sales of Cato Solutions or services, the order of precedence is as follows:
- 1) Any independent/existing Reseller Agreement executed directly with Cato;
  - 2) These General Terms

### **Definitions**

In these General Terms (except where the context otherwise requires) the following terms shall have the following meanings:

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In these General Terms (except where the context otherwise requires) the following terms shall have the following meanings:

**“Cato Solutions”**

means (i) the Cato proprietary software as a service (SaaS), known as the Cato Cloud, (ii) any software that is delivered to Customer by Cato or its distributors or is provided with the Hardware; (iii) all revisions, corrections, modifications, enhancements, improvements and/or updates and upgrades to the foregoing, (iv) all related documentation included in the package and/or placed on Cato's World Wide Web site, and (v) all Hardware.

**“Cato MSA”**

means the then-current Cato Master Service Agreement available at <https://www.catonetworks.com/msa/> including the CATO Data Processing Agreement referenced therein, as amended by Cato from time to time.

<b>“End User”</b>	means a customer who licenses Cato Solutions from Channel Partner for such customer's internal use only and not for resale, remarketing, redistribution or other transfer of such Cato Solutions to any other person or entity.
<b>“Hardware”</b>	means the hardware portion of any physical products included in the Cato Solutions, if any, as set forth in Schedule 1.
<b>“Intellectual Property Rights”</b>	means all worldwide (a) patents, patent applications and patent rights; (b) rights associated with works of authorship, including copyrights, copyrights applications, copyrights restrictions, mask work rights, mask work applications and mask work registrations; (c) rights relating to the protection of trade secrets and confidential information; (d) rights analogous to those set forth herein and any other proprietary rights relating to intangible property; and (e) divisions, continuations, renewals, reissues and extensions of the foregoing (as applicable) now existing or hereafter filed, issued, or acquired.
<b>“Trademarks”</b>	means the trademarks and trade names used by Cato (whether registered or unregistered) in connection with the Cato Solutions.