



CONFIDENTIALITY, INTELLECTUAL PROPERTY AND NON-COMPETITION AGREEMENT

This Agreement is made effective as of _____, 2021 (the “Effective Date”) between Acronis AG, (the “Company”) a Swiss company, on its behalf and on behalf of its affiliates, and direct and indirect subsidiaries (collectively, “Acronis”) and the undersigned (“Employee”). You are entering into this Agreement based on consideration to you from the Company including your continued employment and other benefits which you acknowledge to be sufficient consideration for this Agreement.

1. Nature of Agreement. You and the Company intend this Agreement to be an Agreement of Confidentiality, Intellectual Property and Non-Competition only. This Agreement does not limit in any way the right of either you or the Company to terminate the employment relationship at any time. This Agreement contains obligations which survive termination of the employment relationship between you and the Company. If you and the Company enter into or have entered into an Employment Agreement, this Agreement is to be read and applied consistently with that Agreement.

2. Definitions. As used in this Agreement, the following terms shall have the following meanings:

- 21 “***Inventions***” are discoveries, inventions, works of authorship, improvements and ideas (whether patentable or not), related to any software products of the Company, that you learn of, possess or have access to through your employment by the Company, including but not limited to hardware, software, computer programs, source or object codes, documentation, processes, design, concept, development, methods, codes, formulas, techniques and improvements.
- 22 “***Conflicting Services***” means any Backup and Recovery product, service or process of any person or organization other than the Company, which directly competes with a product, service or process with which you work during employment by the Company or about which you acquire Confidential Information during your employment by the Company.
- 23 “***Confidential Information***” means certain commercially valuable, proprietary and confidential information with respect to the Company’s business, including without limitation, information that may relate to the Company’s products, whether in distribution or under development, trade secrets, computer source code and object code, software and other product designs and specifications, methodologies, financial information and projections, data, developments, ideas, improvements, product and marketing plans, customer and vendor lists, and other oral, visual or written information that the Company designates as confidential or proprietary at the time of disclosure or that, under the circumstances surrounding disclosure, or by the nature of the information, would reasonably be understood by the Recipient to be confidential or proprietary, including without limitation any of the foregoing that is Confidential

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Information of the Company's customers, vendors, partners, licensors or other third party with respect to which the Disclosing Party has an obligation of confidentiality. Confidential Information will not include information that (a) is disclosed in a printed or web publication available to the public, is otherwise in the public domain at the time of disclosure, or becomes publicly known through no wrongful act or omission on the part of the Recipient, or (b) is obtained by the Recipient lawfully from a third party who is not under an obligation of confidentiality to the Company and is not under any similar restrictions as to use. If any Confidential Information is required to be disclosed by a judicial or governmental order, the Recipient will promptly notify the Company and take reasonable steps to assist in contesting such order or in protecting the Company's rights prior to disclosure.

- 24 ***“Customer or Potential Customer”*** means each and every person and/or entity who or which, at any time during the two (2) years prior to termination of your employment: (i) contracted for, was billed for, or received services from the Company or (ii) was in contact with you or in contact with another representative of the Company, of which contact you knew or should have been aware, concerning any products or services offered by the Company.

3. Inventions.

3. 1. You agree that Inventions made or conceived by you, either by yourself or with others, even if made or conceived outside your hours of employment or without the use of the Company's facilities or resources shall be the property of the Company without royalty or other consideration to you if they are made or conceived either: (1) during the period of your employment by the Company; (2) during any period after termination of your employment during which You are retained by the Company as a consultant; or (3) with use of the Company's Inventions or Confidential Information.
- 3.2. You agree to inform the Company promptly and fully of any *Inventions* by a full written report containing, in detail, the procedures used and the results achieved.
- 3.3. At the Company's request and expense you agree to execute any and all applications, assignments, or other documents which the Company requests to apply for, register, and/or obtain copyrights or Letters Patent of the United States or of any foreign country, or to otherwise protect the Company's Interests in any Inventions.
- 3.4 You assign to the Company all interests and rights, including but not limited to copyrights in such Inventions and applications for United States Letters Patent or foreign Letters Patent for such Inventions. You also waive any claim to moral rights in any Inventions. To the extent that any Inventions do not qualify as “works made for hire” under U.S. copyright law, this Agreement will constitute an irrevocable assignment by you to the Company of the ownership of, and all rights of copyright in, such Inventions, and you agree to execute any writings requested by the Company to evidence the Company's ownership.

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- 3.5 You agree that if the Company is unable, after reasonable effort, to obtain your signature on any papers referred to in subparagraphs 3.2 and 3.4, any executive officer of the Company may execute any such papers as your agent and attorney-in-fact. By your signature on this Agreement you designate and appoint each executive officer of the Company as your agent and attorney-in-fact to execute any such papers on your behalf, and to take any and all actions the Company considers necessary to protect its rights and interests in any Inventions.
- 3.6 Excluded from this Agreement are any Inventions that you cannot assign to the Company because of the ownership interests of third parties or in which you have any right, title, or interest prior to your employment by the Company and which are either identified on Schedule A or published or filed in any patent office. If you do not have any to identify, you have written "none" on this line:_____.

4. Return of Company Property.

All Confidential Information remains the property of the Company including, all patent, copyright, trade secret, trademark and other intellectual property rights therein. No license or conveyance of any such rights to Recipient is granted or implied under this Agreement. At any time on ten (10) days prior written notice from the Company, Recipient agrees to return all documents and other tangible manifestations of Confidential Information received pursuant to this Agreement or created by the Recipient and embodying any part of the Confidential Information received hereunder orally, visually or in writing (and all copies and reproductions thereof). It is mutually agreed that Recipient and Company will have no obligation to enter into any further agreement and that any decision to enter into or continue a business relationship is within each party's sole discretion. You agree not to download or keep copies of company property in any hard or soft format.

5. Restrictions.

5.1. You agree that while you are employed by the Company, you will not solicit or provide Conflicting Services except on behalf of or at the direction of the Company.

5.2 At any time during and after your employment with the Company You agree:

- 5.2.1 You will not disclose Confidential Information to any person or entity without first obtaining the Company's consent, and will take all reasonable precautions to prevent inadvertent disclosure of such Confidential Information. You agree to make every effort to ensure that persons working in any capacity for the Company, including without limitation employees, officers, directors, vendors, sub-contractors, attorneys, and agents, subsidiary or parent entities (and the employees, officers, directors, vendors, contractors, attorneys, and agents, thereof) are permitted access to Confidential Information on a strictly "need to know" basis. This prohibition against your

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disclosure of Confidential Information includes, but is not limited to, disclosing the fact that any similarity exists between Confidential Information and information independently developed by another person or entity. You understand that the existence of such a similarity does not excuse you from honoring your obligations under this Agreement.

- 5.2.2 You will not use any Confidential Information for your personal benefit or for the benefit of any person or entity other than the Company. You will not use, copy or transfer Confidential Information other than as necessary in carrying out your duties on behalf of the Company, without first obtaining the Company's written consent, and will take all reasonable precautions to prevent inadvertent use, copying or transfer of Confidential Information. This prohibition against Your use, copying, or transfer of Confidential Information includes, but is not limited to, selling, licensing or otherwise exploiting, directly or indirectly, any products or services (including software in any form) which embody or are derived from Confidential Information, or exercising judgment in performing analysis based upon knowledge of Confidential Information. Without in any way limiting the generality of this subsection, you agree not to directly or indirectly circumvent or compete with the Company with regard to any Confidential Information.
- 5.2.3 You will not make any written use of or reference to the Company's name or trademarks (or any name under which the Company does business) for any marketing, public relations, advertising, display or other business purpose unrelated to the express business purposes and interests of Company or make any use of Company's facilities for any activity unrelated to the express business purposes and interests of the Company, without the prior written consent of the Company, which consent may be withheld or granted in the Company's sole and absolute discretion.
- 5.2.4 In the event that you receive a subpoena or order of a court, or other body having jurisdiction over a matter, in which you are compelled to produce any information relevant to the Company, whether confidential or not, you will immediately provide the Company with written notice of this subpoena or order so that the Company may timely move to quash if appropriate.
- 5.3 During your employment with the Company and for a period of twelve (12) months immediately following the termination of your employment with the Company you agree not to directly, or indirectly: (i) hire or establish an independent contractor relationship with any person who, during the twelve (12) months prior to such hiring, was employed by or provided services to the Company; (ii) influence any person who is then employed by or is providing services to the Company to terminate his or her employment or association with the Company; or (iii) encourage any customer or potential customer of the Company to modify or terminate its relationship with the

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Company.

6. Reasonableness of Restrictions and Severability.

- 6.1. You represent and agree that you have read this entire Agreement, and understand it. You agree that this Agreement does not prevent you from earning a living or pursuing your career. You agree that the restrictions contained in this Agreement are reasonable, proper, and necessitated by the Company's legitimate business interests. You represent and agree that you are entering into this Agreement freely and with knowledge of its content and with the intent to be bound by the Agreement and the restrictions contained in it.
- 6.2. In the event that a court finds this Agreement, or any of its restrictions, to be ambiguous, unenforceable, or invalid, you and the Company agree that the court shall read the Agreement as a whole and interpret the restriction(s) at issue to be enforceable and valid to the maximum extent allowed by law.
- 6.3. If the Court declines to enforce this Agreement in the manner provided in subparagraph 6.2, you and the Company agree that this Agreement will be automatically modified to provide the Company with the maximum protection of its business interests allowed by law and you agree, after review, to be bound by this Agreement as modified.
- 6.4. You and the Company agree that the market for the Company's software products/services is internet based, and therefore global, so that this Agreement applies to your activities regardless of where they take place. If, however, after applying the provisions of subparagraphs 6.2 and 6.3, a court still decides that this Agreement or any of its restrictions is unenforceable for lack of reasonable geographic limitation and the Agreement or restriction(s) cannot otherwise be enforced you and the Company agree that the fifty (50) miles radius from any office at which you worked for the Company on either a regular or occasional basis during the two years immediately preceding termination of your employment with the Company shall be the geographic limitation relevant to the contested restriction.
- 6.5 If any provision of this Agreement is declared to be ambiguous, unenforceable or invalid, the remainder of this Agreement shall remain in full force and effect, and the Agreement shall be read as if the ambiguous, unenforceable or invalid provision was not contained in the Agreement.

7. Injunctive Relief and Remedies.

- 7.1 Recipient hereby acknowledges that unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to the Company, which may be difficult to ascertain. Accordingly, Recipient agrees that the Company will have the right to seek and obtain immediate injunctive relief from breaches of

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this Agreement, without obligation to post bond, in addition to any other rights or remedies it may have.

7.2 In the event that the Company enforces this Agreement through a court order, you agree that the restrictions contained in Section 5.3 of this Agreement shall remain in effect for a period of twelve (12) months from the effective date of the Order enforcing the Agreement.

7.3 You agree that if the Company is successful in whole or part in any legal or equitable action against you under this Agreement, the Company shall be entitled to payment of all costs, including reasonable attorney's fees, from you, as determined by the Court.

8. Publication of This Agreement to Subsequent Employers or Business Associates of Employee.

8.1. If you are offered employment or the opportunity to enter into any business venture which is in the business of providing the Conflicting Services as owner, partner, consultant or other capacity while the restrictions described in paragraph 5.3 of this Agreement are in effect you agree to inform your potential employer, partner, co-owner and/or others involved in managing the business which you have an opportunity to join of your obligations under this Agreement and also agree to provide such person or persons with a copy of this Agreement.

8.2. You also authorize the Company to provide copies of this Agreement to any of the persons or entities described in subparagraph 8.1 and to make such persons aware of your obligations under this Agreement.

9. Miscellaneous.

9.1. This Agreement and the restrictions and obligations in it survive the employment relationship and are binding regardless of the reason for termination of employment.

9.2. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assignees. This Agreement will be construed and interpreted in accordance with the laws of Switzerland, and each party irrevocably submits to the exclusive venue and jurisdiction of the courts in Switzerland in any action, suit or proceeding arising out of or relating to this Agreement. Employee acknowledges that it is subject to United States laws and regulations controlling the export of technical data, computer software and other commodities and agrees not to export or allow the export or re-export of such data, software or other commodities in violation of such laws and regulations. The headings used in this Agreement are for ease of reference only and will not be used to interpret any aspect of this Agreement. This Agreement is executed as a sealed instrument as of the Effective Date.

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9.3 No waiver by the Company of any breach of any of the provisions of this Agreement is a waiver of any preceding or succeeding breach of the same or any other provisions of this Agreement. No waiver shall be effective unless in writing and then only to the extent expressly set forth in writing.

9.4 Nothing in this Agreement grants a license or permission to use any intellectual property of Company, whether owned, pending, or currently under development.

9.5 No failure by the Company to enforce or take advantage of any provisions hereof shall constitute a waiver of the right subsequently to enforce or take advantage of such provision and no rights of the Company shall be deemed waived, not shall this Agreement or any of the terms or provisions thereof be changed or amended or waived, in any way whatsoever, except by written agreement executed by authorized officers of the two parties.

9.6 You agree that on the subjects covered in this Agreement, it is the entire Agreement between you and the Company, superseding any previous oral or written communications, representations, understanding, or agreements with the Company or with any representative of the Company.

By signing this Agreement you represent that you have read and understand this Agreement, and that you sign it voluntarily.

ACRONIS AG

Employee

By: _____

By: _____

Name: Klaus Oswald and Mikhail Novikov

Name: _____

Title: VP Finance & Admin EMEA and
Director Finance EMEA & RU

Address: Rheinweg 9, 8200
Schaffhausen, Switzerland
c/o 1 Van de Graaff drive,
Suite 301, Burlington, MA 01803
attn.: General Counsel



SCHEDULE A INVENTIONS

For purposes of the Confidentiality, Intellectual Property and Non-Competition Agreement between Acronis AG, and _____, *Inventions* shall not include the following:

[Be sure to list all protected inventions. Do not disclose them in detail, but identify only by title and documentation date.]



SCHEDULE B *CONFIDENTIAL INFORMATION*

For purposes of the Confidentiality, Intellectual Property and Non-Competition Agreement between Acronis AG., and _____, Confidential Information shall include but not be limited to the following information not generally known to the public (including information conceived, discovered or developed by Employee):

1. Information relating to the Company's proprietary rights prior to any public disclosure thereof, including but not limited to the nature of the proprietary rights, Inventions, production data, technical and engineering data, test data and test results, knowledge of codes for data fields, documentation manuals (including data dictionaries), the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets).
2. Work product resulting from or related to work or projects performed or to be performed for the Company or for clients of the Company, including but not limited to the interim and final lines of inquiry, hypotheses, research and conclusions related thereto and the methods, processes, procedures, analyses, techniques and audits used in connection therewith.
3. Marketing and development plans, marketing strategies, product descriptions and program descriptions, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of the Company which have been or are being discussed.
4. Computer software of any type or form in any stage of actual or anticipated research and development, including but not limited to programs and program modules, routines and subroutines, processes, algorithms, design concepts, design specifications (design notes, annotations, documentation, flowcharts, coding sheets, and the like), source code, object code and load modules, programming, program patches, data models and systems plans, design, application and documentation.
5. Internal Company personnel information, employee lists, compensation data, non-public financial information, financial projections and business plans and strategy, operational plans, financing and capital-raising plans, activities, and agreements, vendor names and other vendor information (including vendor characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, and the manner and methods of conducting the Company's business.
6. Non-public information pertaining to any Customer or Potential Customer and their needs or desires with respect to the Business of the Company, including, but not

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limited to, names of Customers or Potential Customers and their representatives, proposals, bids, contracts and their contents and parties, data provided to the Company by Customers or Potential Customers, the type, quantity and specifications of products and services purchased, leased, licensed or received by Customers or Potential Customers and other non-public information.

7. Non-public information pertaining to any of the Company's business partners and their services, including, but not limited to, names of the Company's business partners and their representatives, proposals, bids, contracts and their contents and parties, data provided by the Company's business partners and the type, quantity and specifications of products and services purchased, leased, licensed or received by the Company and any other non-public information.
8. Any information which a competitor of the Company could use to the competitive disadvantage of the Company.