

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
 Stylesheet Version v1.2

ETAS ID: TM554051

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
ACRONIS INTERNATIONAL GMBH		12/18/2019	Gesellschaft Mit Beschränkter Haftung (GmbH): SWITZERLAND
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	MIDCAP FINANCIAL TRUST		
<b>Street Address:</b>	7255 WOODMONT AVE., SUITE 200		
<b>Internal Address:</b>	C/O MIDCAP FINANCIAL SERVICES, LLC, AS SERVICER		
<b>City:</b>	BETHESDA		
<b>State/Country:</b>	MARYLAND		
<b>Postal Code:</b>	20814		
<b>Entity Type:</b>	STATUTORY TRUST: DELAWARE		
<b>PROPERTY NUMBERS Total: 22</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
Registration Number:	3145069	ACRONIS	
Registration Number:	3749631	ACRONIS BACKUP AND RECOVERY	
Registration Number:	5579512	TRUE IMAGE	
Registration Number:	4691935	ACRONIS	
Registration Number:	1906365	GROUPLOGIC	
Registration Number:	3072489	GROUPLOGIC	
Registration Number:	3027138	DISK DIRECTOR	
Registration Number:	3112039	SNAP DEPLOY	
Registration Number:	3176517		
Registration Number:	3143774	DRIVE CLEANSER	
Registration Number:	3326806	SECURE ZONE	
Registration Number:	3240880	RECOVERY MANAGER	
Registration Number:	3199965	UNIVERSAL DEPLOY	
Registration Number:	3467195	TRY AND DECIDE	
Registration Number:	3638714	CHANNELS 1ST	
Registration Number:	3691884	ACRONIS ADVANTAGE	
Registration Number:	4192128	INSTANT RESTORE	

CH \$565.00 3145069

Property Type	Number	Word Mark
Registration Number:	4354491	VMPROTECT
Registration Number:	5313301	ACRONIS CLOUDRAID
Registration Number:	5449332	ACRONIS CLOUDRAID
Serial Number:	88226233	ACRONIS FILES PROTECT
Serial Number:	88226221	ACRONIS CYBER PROTECTION

#### CORRESPONDENCE DATA

Fax Number: 7036106200

*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.*

Phone: 703-610-6100

Email: BOXIP@HOGANLOVELLS.COM

Correspondent Name: RACHEL S. FLEESON

Address Line 1: 8350 BROAD STREET, 17TH FLOOR

Address Line 2: HOGAN LOVELLS US LLP

Address Line 4: TYSONS, VIRGINIA 22102

ATTORNEY DOCKET NUMBER: 036639.110

NAME OF SUBMITTER: Rachel Fleeson

SIGNATURE: /rsf/

DATE SIGNED: 12/19/2019

#### Total Attachments: 12

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## **TRADEMARK SECURITY AGREEMENT**

This Trademark Security Agreement is entered into as of the 18th day of December, 2019 by and among **MIDCAP FINANCIAL TRUST**, a Delaware statutory trust (in such capacity, together with its successors and assigns, "Agent") and the signatory hereto ("Swiss Grantor").

### RECITALS

A. The Lenders have agreed to make certain advances of money and to extend certain financial accommodation to the Swiss Grantor (the "Credit Extensions") in the amounts and manner set forth in that certain Credit, Guaranty and Security Agreement, by and between Agent, the Lenders, the Swiss Grantor and the other Credit Parties party thereto, dated as of the date hereof (as the same may be amended, modified or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein are used as defined in the Credit Agreement). The Lenders are willing to make the Credit Extensions to the Credit Parties, but only upon the condition, among others, that the Swiss Grantor shall grant to Agent, for the ratable benefit of the Lenders, a security interest in certain Trademarks (as defined below) to secure the obligations of the Credit Parties under the Credit Agreement.

B. Pursuant to the terms of the Credit Agreement, Swiss Grantor has granted to Agent, for the ratable benefit of the Lenders, a security interest in all of such Swiss Grantor's right, title and interest, whether presently existing or hereafter acquired, in, to and under all of the Collateral.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Credit Agreement, Swiss Grantor hereby represents, warrants, covenants and agrees as follows:

### AGREEMENT

Swiss Grantor hereby grants to Agent, for the ratable benefit of the Lenders, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Agent, for the ratable benefit of the Lenders, all of such Swiss Grantor's right, title and interest in, to and under the following (all of which shall collectively be called the "Trademark Collateral") (excluding the Subject Swiss Collateral), wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof:

(a) All trademarks, trade names, service marks, rights of use of any name, domain names, or any other similar rights, in each case whether registered or not, any applications therefor, and the entire goodwill of the business of such Swiss Grantor connected with and symbolized by such trademarks, including without limitation the U.S. registered trademarks and trademark applications set forth on Exhibit A attached hereto, as such Exhibit may be amended, modified or supplemented from time to time (collectively, the "Trademarks");

(b) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(c) All licenses or other rights to use any of the Trademarks and all license fees and royalties arising from such use to the extent permitted by such licenses or rights;

(d) All amendments, extensions, renewals and extensions of any of the Trademarks;  
and

(e) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

Notwithstanding the foregoing, the Trademark Collateral does not include any “intent-to-use” trademarks at all times prior to the first use thereof, whether by the actual use thereof in commerce, the recording of a statement of use with the United States Patent and Trademark Office or otherwise; provided, that upon submission and acceptance by the United States Patent and Trademark Office of an amendment to allege use of an intent-to-use trademark applicable pursuant to 15 U.S.C. Section 1060(a) (or any successor provision) such intent-to-use trademark shall constitute Trademark Collateral.

This security interest is granted in conjunction with the security interest granted to Agent, for the ratable benefit of the Lenders, under the Credit Agreement. The rights and remedies of Agent with respect to the security interest granted hereby are in addition to those set forth in the Credit Agreement and the other Financing Documents, and those which are now or hereafter available to Agent as a matter of law or equity. Each right, power and remedy of Agent provided for herein or in the Credit Agreement or any of the Financing Documents, or now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to every right, power or remedy provided for herein and the exercise by Agent of any one or more of the rights, powers or remedies provided for in this Trademark Security Agreement, the Credit Agreement or any of the other Financing Documents, or now or hereafter existing at law or in equity, shall not preclude the simultaneous or later exercise by any person, including Agent, of any or all other rights, powers or remedies.

(f) Swiss limitation: Notwithstanding anything to the contrary in this Trademark Security Agreement, the obligations of a Swiss Grantor are subject to the following limitations:

(i) If and to the extent the security interests granted by the Swiss Grantor under or in connection with this Trademark Security Agreement guarantees, indemnifies, or otherwise secures obligations other than its own obligations and obligations of one of the Swiss Grantor’s wholly owned direct or indirect subsidiaries (i.e. obligations of its direct or indirect parent companies (up-stream liabilities) or sister companies (cross-stream liabilities)) (the “**Swiss Restricted Obligations**”) and that using the proceeds from the enforcement of such security interests would under Swiss corporate law, at the time payment is due, not be permitted, the payments under the security, or proceeds from the enforcement of such security interest to be used to discharge the Swiss Restricted Obligations shall be limited to the maximum amount of the Swiss Grantor’s freely disposable equity at the time of enforcement (the “**Maximum Amount**”); provided that such limitation is required under the applicable law at that time; provided, further, that such limitation shall not (generally or definitively) free the Swiss Grantor from its obligations in excess of the Maximum Amount, but merely postpone the performance date of those obligations until such time or times as performance is again permitted under then applicable law. This Maximum Amount of freely disposable equity shall be determined in accordance with Swiss law and applicable Swiss accounting principles, and , if and to the extent required under applicable Swiss law, be confirmed by the auditors of the Swiss Grantor on the basis of an interim audited balance sheet as of that time

(ii) In case the proceeds from the enforcement of the security granted under this Trademark Security Agreement are by law subject to the taxes imposed under the Swiss Federal Act on Withholding Tax of 13 October 1965, as amended (the **Swiss Withholding Tax**), the Agent shall:

(A) if and to the extent possible procure to mitigate to the extent possible any Swiss Withholding Tax obligations to be levied on the use of the enforcement

proceeds of the security, in particular by notification pursuant to applicable law (including double tax treaties) rather than payment of the tax;

(B) if the notification procedure pursuant to paragraph (f)(ii)(A):

(1) applies for a part of the Swiss Withholding Tax only, the Agent undertakes to withhold from the enforcement proceeds of the security an amount of Swiss Withholding Tax at the reduced rate resulting after the discharge of part of such tax by notification under applicable law; or

(2) is not available, the Agent undertakes to withhold from the enforcement proceeds of the security an amount equivalent to the Swiss Withholding Tax at the rate of 35% (or such other rate as in force from time to time), that may be due by the Swiss Grantor to the Swiss Federal Tax Administration from the enforcement of the security by the Agent under this Trademark Security Agreement, and forward such amount to the Swiss Federal Tax Administration, in the name and for the account of the Swiss Grantor after presentation by the Swiss Grantor to the Agent of the relevant form of the Swiss Federal Tax Administration; and

(3) in the case of a deduction of Swiss Withholding Tax the Swiss Grantor shall use its best efforts to ensure that (1) any person other than the Agent, which is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such application of proceeds towards discharging Swiss Restricted Obligations, will, as soon as possible after such deduction request a refund of the Swiss Withholding Tax under applicable law (including tax treaties), and pay to the Agent upon receipt any amounts so refunded or (2) if the Agent is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such application of proceeds towards discharging Swiss Restricted Obligations and if requested by the Agent, the Swiss Grantor provides the Agent with those documents that are required by law and applicable tax treaties to be provided by the payer of such tax in order to enable the Agent to prepare a claim for refund of Swiss Withholding Tax. The Agent shall cooperate with the Swiss Grantor in order to obtain such refund.

(iii) If Swiss Withholding Tax is to be withheld in accordance with subparagraph (f)(ii) above, the Agent shall be entitled to further apply proceeds from the enforcement of the security against the Swiss Restricted Obligations up to an amount which is equal to that amount which would have been obtained if no withholding of Swiss Withholding Tax were required, whereby the aggregate amount paid shall always be limited to the maximum amount of the amount permitted to be paid under Swiss law and practice as set out in paragraph (f)(i) above. In case and to the extent the refunds received by the Agent pursuant to paragraph (f)(ii)(B)(3) (refund) above have the effect that the proceeds received by the Agent exceed the Swiss Restricted Obligations, then the Agent shall return such overcompensation to the Swiss Grantor.

(iv) If performance of Swiss Restricted Obligations would be limited due to the effects referred to in paragraph (f)(i) above, the Swiss Grantor shall promptly implement all such measures and/or promptly procure the fulfilment of all prerequisites to allow it to perform its obligations with a minimum of limitations, including the following:

(A) preparation of an up-to-date audited balance sheet of the Swiss Grantor;

- (B) confirmation from the auditors of the Swiss Grantor that the relevant amount represents (the maximum of) freely disposable equity;
- (C) revaluation of hidden reserves (to the extent permitted by mandatory Swiss law and applicable accounting standards);
- (D) to the extent permitted by applicable law and applicable accounting standards, write-up or realise any of its assets that are shown in its balance sheet with a book value that is significantly lower than the market value of the assets, in case of realisation, however, only if such assets are not necessary for the Swiss Grantor's business (*nicht betriebsnotwendig*); and
- (E) approval by a quotaholders' meeting of the Swiss Grantor of the (resulting) profit distribution.

THIS TRADEMARK SECURITY AGREEMENT AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR THERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW).

SWISS GRANTOR AND AGENT HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS TRADEMARK SECURITY AGREEMENT AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. SWISS GRANTOR AND AGENT ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. SWISS GRANTOR AND AGENT WARRANT AND REPRESENT THAT IT HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

This Trademark Security Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Trademark Security Agreement by facsimile or by electronic mail delivery of an electronic version (e.g., .pdf or .tif file) of an executed signature page shall be effective as delivery of an original executed counterpart hereof and shall bind the parties hereto.

The provisions of the Credit Agreement regarding choice of law, jurisdiction, and venue are incorporated herein and shall govern this Trademark Security Agreement. This Trademark Security Agreement shall inure to the benefit of Agent, the Lenders and their respective successors and assigns, and shall be binding upon Swiss Grantor and its successors and assigns.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Trademark Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

**GRANTOR:**

**ACRONIS INTERNATIONAL GMBH**

By: 

Name: Mikhail Novikov

Title: Geschäftsführer / Executive Director

**AGENT:**

**MIDCAP FINANCIAL TRUST**

By: Apollo Capital Management, L.P.,  
its investment manager

By: Apollo Capital Management GP, LLC,  
its general partner

By: \_\_\_\_\_

Name: Maurice Amsellem

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties have caused this Trademark Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

**GRANTOR:**

**ACRONIS INTERNATIONAL GMBH**

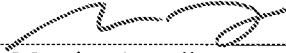
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**AGENT:**

**MIDCAP FINANCIAL TRUST**

By: Apollo Capital Management, L.P.,  
its investment manager



By: Apollo Capital Management GP, LLC,  
its general partner

By:  \_\_\_\_\_  
Name: Maurice Amsellem  
Title: Authorized Signatory



# EXHIBIT A

## U.S. Registered Trademarks and Trademark Applications

Owner of IP	Mark	File Date	Registration Date	Registration No./(Application No.)
Acronis International GmbH	ACRONIS	09/19/2005	09/19/2006	3,145,069
Acronis International GmbH	ACRONIS BACKUP AND RECOVERY	07/11/2009	02/16/2010	3,749,631
Acronis International GmbH	TRUE IMAGE	02/21/2018	10/09/2018	5,579,512
Acronis International GmbH	ACRONIS & Design 	07/12/2014	02/24/2015	4,691,935
Acronis International GmbH	GROUPLOGIC <b>GroupLogic</b>	07/19/1993	07/18/1995	1,906,365
Acronis International GmbH	GROUPLOGIC <b>GroupLogic</b>	06/22/2004	03/28/2006	3,072,489
Acronis International GmbH	DISK DIRECTOR	05/14/2004	12/13/2005	3,027,138
Acronis International GmbH	SNAP DEPLOY	07/25/2005	07/04/2006	3,112,039
Acronis International GmbH	Orange and Blue Design 	09/19/2005	11/28/2006	3,176,517
Acronis International GmbH	DRIVE CLEANSER	09/26/2005	09/12/2006	3,143,774
Acronis International GmbH	SECURE ZONE	11/08/2005	10/30/2007	3,326,806
Acronis International GmbH	RECOVERY MANAGER	11/15/2005	05/08/2007	3,240,880
Acronis International GmbH	UNIVERSAL DEPLOY	06/22/2006	01/16/2007	3,199,965
Acronis International GmbH	TRY AND DECIDE	11/21/2007	07/15/2008	3,467,195
Acronis International GmbH	CHANNELS 1ST	11/10/2008	06/16/2009	3,638,714
Acronis International GmbH	ACRONIS ADVANTAGE	03/06/2009	10/06/2009	3,691,884
Acronis International GmbH	INSTANT RESTORE	05/02/2011	08/14/2012	4,192,128
Acronis International GmbH	VMPROTECT	05/24/2011	06/18/2013	4,354,491
Acronis International GmbH	ACRONIS CLOUDRAID	10/05/2016	10/17/2017	5,313,301
Acronis International GmbH	ACRONIS CLOUDRAID	10/05/2016	04/17/2018	5,449,332
Acronis International GmbH	ACRONIS FILES PROTECT <sup>1</sup>	12/12/2018		(88226233)
Acronis International GmbH	ACRONIS CYBER PROTECTION <sup>2</sup>	12/12/2018		(88226221)

<sup>1</sup> This is an intent-to-use application which shall not become Collateral until acceptance by the U.S. Patent and Trademark Office, of a "Statement of Use," Amendment to Allege Use," or similar filing with respect thereto.

<sup>2</sup> This is an intent-to-use application which shall not become Collateral until acceptance by the U.S. Patent and Trademark Office, of a "Statement of Use," Amendment to Allege Use," or similar filing with respect thereto.

## ANNEX A<sup>3</sup>

### TRADEMARK SECURITY AGREEMENT SUPPLEMENT

This Trademark Security Agreement Supplement is entered into as of the [ ] day of [ ], 20[ ] by [ ], a [ ] (“ ”), [ ], a [ ] (“Swiss Grantor”).

#### RECITALS

A. Swiss Grantor is party to that certain Trademark Security Agreement, by and between Agent and the Swiss Grantor, dated as of December 18, 2019 (as the same may have been amended, modified or supplemented from time to time prior to the date hereof, the “Existing Trademark Security Agreement”; capitalized terms used herein are used as defined in the Existing Trademark Security Agreement);

B. Swiss Grantor wishes to amend the Existing Trademark Security Agreement by supplementing the Trademark Collateral therein with the Trademark(s) listed on the exhibits hereto.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Credit Agreement, Swiss Grantor hereby represents, warrants, covenants and agrees as follows:

#### AGREEMENT

Swiss Grantor hereby grants to Agent, for the ratable benefit of the Lenders, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Agent, for the ratable benefit of the Lenders, all of such Swiss Grantor’s right, title and interest in, to and under the following (excluding the Subject Swiss Collateral as defined in the Credit Agreement (as defined in the Existing Trademark Security Agreement)), wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof:

(a) All Trademarks, including without limitation those U.S. registered trademarks and trademark applications set forth on Exhibit A attached hereto, as such exhibit may be further amended, modified or supplemented from time to time; and

(b) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

Swiss Grantor hereby agrees that the Trademarks listed on the exhibits hereto shall become a part of the Trademark Collateral in the Existing Trademark Security Agreement and shall secure all Obligations in accordance with the terms of the Credit Agreement. The exhibits of the Existing Trademark Security Agreement shall be deemed amended to add the Trademark(s) listed on the exhibits to this Trademark Security Agreement Supplement. The rights and remedies of the Agent with respect to the security interests granted herein are without prejudice to, and are in addition to those set forth in the Credit Agreement and the Existing Trademark Security Agreement.

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<sup>3</sup> Note to draft: Annex A to be used to supplement the Trademark Security Agreement with new or revised trademarks after the initial closing, in accordance with the updating requirements under the Credit Agreement

The provisions of the Existing Trademark Security Agreement regarding the Swiss limitation (as provided for in paragraph (f) of the Existing Trademark Security Agreement), choice of law, jurisdiction, venue and jury trial waiver are incorporated herein and shall govern this Trademark Security Agreement Supplement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Swiss Grantor has caused this Trademark Security Agreement Supplement to be duly executed by its officers thereunto duly authorized as of the first date written above.

**SWISS GRANTOR:**

**Acronis International GmbH**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT A

U.S. Registered Trademarks and Trademark Applications

Description

Registration/  
Application  
Number

Registration/  
Application  
Date

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May 11, 2009 // «MY Initials»

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