

## NOOBAA LTD. – LICENSEE LICENSE AGREEMENT NOOBAA COMMUNITY EDITION

NooBaa Software (as may be upgraded or updated from time to time, and related services, features or documentation provided by Noobaa Ltd., the “**Product**”) which you are about to install is subject to this Agreement. This Agreement (the “**Agreement**”) is an agreement between you (both the individual installing the Product and any legal entity on whose behalf such individual is acting) (hereinafter “**Licensee**” or “**You**”) and Noobaa Ltd. (the “**Company**” or “**Us**”).

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CERTAIN INFORMATION ABOUT YOU AND YOUR USE OF THE PRODUCT IS SUBJECT TO THE COMPANY'S PRIVACY POLICY AVAILABLE AT [WWW.NOOBAA.COM](http://WWW.NOOBAA.COM). BY CLICKING ON THE "AGREE" BUTTON, YOU CONSENT TO THE COLLECTION AND USE OF INFORMATION AS DESCRIBED IN THE COMPANY'S PRIVACY POLICY, AS MAY BE AMENDED BY US FROM TIME TO TIME

### 1. Grant of License

- 1.1. The Product is licensed, not sold, under the terms of this Agreement. Subject to the terms of this Agreement, Company grants and Licensee accepts a non-transferable, non-assignable (without right of sublicense), non-exclusive, fully revocable, free of charge, right to use the Product in its usual and customary user environment as the Product is intended to be used (the “**License**”).

### 2. Product use and Restrictions.

- 2.1. The Product is an architecture solution for unstructured-data storage that uses any compute resource available, including virtual, physical, heterogeneous, and even shared resources, located in the datacenter, across the WAN or in the public cloud. The Product includes a control system, running in a virtualized compute environment, and Daemon Software, running on storage nodes. The Product is

intended for a use in a standard business environment and should be deployed in compliance with standard best practices.

- 2.2. The Product allows, subject to term herein, unrestricted deployment, unlimited provisioning of capacity, unlimited use of the Product's features and unlimited provisioning of the NooBaa control system in a virtualized environment. The Community Edition license herein is limited to a total amount of Storage Space as defined by specifications. Company at its sole discretion, may change such Storage Space limit without prior notice. "Storage Space" means logical data stored, which excludes, inter alia, capacity used for fault resilience or data replication for DR purposes, and excludes the effect of deduplication, compression, and encryption on physical storage consumption.
- 2.3. Company attempts to provide a fully functioning product and to eliminate errors in the Product and documentation. Nevertheless, the Company does not warrant that the Product will meet the requirements of any user or that the operation of the Product will be error-free or uninterrupted or that defects in the Product will be amended.
- 2.4. Company may update, modify or discontinue offering the Product without any prior notice. If Company delivers a revision of the Product, Licensee agrees and acknowledges that Company shall have no responsibility for confirming that the Product is compatible with previously delivered versions of the Product.
- 2.5. Company does not commit to provide support or maintenance for the Community Edition license of the Product. Company may, at its sole discretion and without creating any obligation to continue such services, provide support on a 'best effort' basis for the Product.
- 2.6. Open Source Software. Certain items of software included with the Product are subject to "open source" or "free software" licenses ("Open Source Software"). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of this Agreement. Each item of Open Source Software is licensed under the terms of the Licensee license that accompanies such Open Source Software. Nothing in this Agreement limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable Licensee license for the Open Source Software.
- 2.7. You may not rent, lease, lend, sell, redistribute or sublicense the Product. You may not copy (except as expressly permitted by this license), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Product, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or to

the extent as may be permitted by the licensing terms governing use of any open sourced components included with the Product);

- 2.8. You may not use the Product for any illegal purpose, or in violation of any applicable law, including, without limitation, laws governing intellectual property and other proprietary rights, data protection and privacy. You may not post, store, send, transmit, or disseminate any information or material which infringes any patents, trademarks, trade secrets, copyrights, or any other proprietary or intellectual property rights;
- 2.9. You may not remove, alter or delete any copyright notices, proprietary markings or confidential legends placed upon or contained within the Product;
- 2.10. You may not take any action to circumvent or defeat the security or content usage rules provided, deployed or enforced by any functionality contained in the Product;
- 2.11. You may not disclose any results of any benchmark tests, system characterization, data regarding the internal functional mechanisms or comparative analyses, of the Product unless approved in writing by an authorized representative of The Company.
- 2.12. You hereby agree that all and any use, disclosure, transport or transmission of the Product will be in accordance with any applicable export control laws and regulations and agree that You are solely responsible for fulfilling any applicable governmental requirements in connection therewith. You agree to indemnify and hold the Company harmless from and against any claim, loss, liability or damage suffered or incurred by The Company resulting from or related to any violation by this paragraph.

### 3. Termination.

Licensee may terminate this Agreement at any time by uninstalling the Product, and destroying all copies of the Product. Without prejudice to any other rights, the Company may terminate this Agreement upon a seven (7) prior written notice for any or no reason, and in addition this Agreement shall immediately terminate if Licensee fails to comply with the terms and conditions of this Agreement. In such event, Licensee must uninstall the Product and destroy all copies of the Product. The parties' rights and obligations which, by their nature, would continue beyond the termination of this Agreement, including but not limited to those rights and obligations of the parties set forth in Sections 4 (Proprietary Rights), 5 (Confidentiality), 8 (Limitations of Liability), 9 (Release) and 10 (Miscellaneous) will survive such termination, cancellation or expiration.

4. Proprietary Rights.

Company retains exclusive ownership of the Product, related documentation and trademarks, all patent, copyright, trade secret, trade name and other intellectual property rights related to the Product, and all modifications, improvements, reports, recommendations and inventions in connection with the Product and all intellectual property rights therein (the “**Developments**”), whether prepared by Company or Licensee. Licensee assigns to Company all of its ownership rights in the Developments and shall cooperate with the Company as reasonably required to perfect such assignments.

5. Confidentiality.

- 5.1. "Confidential Information" shall be defined as the proprietary and confidential information and trade secrets of the Company (or its licensors if applicable) relating to the Product. Licensee agrees that the Product contains valuable proprietary information and that unauthorized dissemination or disclosure of the Software could cause the Company irreparable harm. For the term of this Agreement and an unlimited time afterwards, Licensee shall hold in strict confidence any such Confidential Information received from the Company and shall protect the confidentiality of such with the same degree of care as for its own information of like importance, but not less than reasonable degree of care. Licensee undertakes to disclose the Confidential Information only to its employees who have to be so informed on a "need-to-know" basis and, which are bound by an agreement to maintain the Confidential Information in strict confidence (the “Authorized Personnel”). Licensee shall be responsible that the obligations contained herein are strictly observed by the Authorized Personnel.
- 5.2. Upon request by the Licensee, the Company shall advise the Licensee whether or not it considers any particular information or materials to be Confidential Information.

6. Injunctive relief

The Licensee understands that any violation of this Agreement would subject the Company to irreparable injury. Therefore, in addition to any remedies otherwise available, the Company will be entitled to injunctive relief or equitable relief as well as monetary damages as may be deemed proper or necessary by a court of competent jurisdiction.

7. Disclaimer of Warranty.

THE PRODUCT IS PROVIDED "AS IS". COMPANY SPECIFICALLY DISCLAIMS ALL WARRANTIES OR CONDITIONS WITH RESPECT TO THE PRODUCTS OR THE USE OR OPERATION THEREOF, WHETHER EXPRESS, IMPLIED, AND STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. IT IS CLARIFIED THAT THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE IS BORNE SOLELY BY THE LICENSEE.

8. Limitation of liability.

IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA, OR ANY OTHER DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PRODUCT, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF THE COMPANY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT EXCEED THE AMOUNT OF ONE DOLLAR (\$1). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE THAT THIS IS A REASONABLE ALLOCATION OF RISK.

9. Release.

YOU RELEASE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD US, OUR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS AND AFFILIATES, HARMLESS FROM ALL LIABILITIES, CLAIMS, LOSS AND DAMAGES (OF EVERY KIND, WHETHER KNOWN OR UNKNOWN AND SUSPECTED OR UNSUSPECTED), AND INCLUDING REASONABLE ATTORNEY'S FEES RELATED IN ANY WAY TO YOUR USE OF THIS PRODUCT OR RELATED DAMAGES.

#### 10. Miscellaneous.

Licensee may not, without the prior written consent of Company, make any representation to a third party regarding its approval or disapproval of the Product. This Agreement is the entire agreement between them, and supersedes any previous agreements regarding their subject matter. Licensee may not assign this Agreement except to a successor of all or substantially all of its business or assets. If any provision of the Agreement is held to be void or unenforceable, such provision is amended to the extent necessary for the Agreement to be otherwise enforceable. No modification to the Agreement shall be binding, unless in writing and signed by the party to be charged. No failure or delay in exercising any right shall operate as a waiver thereof, nor will any partial exercise of any right hereunder preclude further exercise. This Agreement shall be governed by the laws of the State of Israel regardless of conflict of law rules. Any dispute arising out of or in connection with this Agreement shall be brought only in courts in Tel Aviv, Israel, which have exclusive jurisdiction over such disputes.

**Last Updated: August 2016**