

## **Software License Agreement**

**THIS SOFTWARE LICENSE AGREEMENT** (the "Agreement") on the day purchased via Google Cloud Marketplace (the "Execution Date")

### **BETWEEN:**

AppsCode Inc. of 3955 Algonquin Dr Apt 176, Las Vegas, NV 89119, USA  
(the "Vendor")

### **OF THE FIRST PART**

- AND -

Google Cloud MarketPlace Buyer  
(the "Licensee")

### **OF THE SECOND PART**

### **BACKGROUND:**

The Vendor wishes to license computer software to the Licensee and the Licensee desires to purchase the software license under the terms and conditions stated below.

**IN CONSIDERATION OF** the provisions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

#### **License**

1. Under this Agreement the Vendor grants to the Licensee a non-exclusive and non-transferable license (the "License") to use AppsCode Cloud (the "Software") as described in Appendix 1.
2. "Software" includes the executable computer programs and any related printed, electronic and online documentation and any other files that may accompany the product.
3. Title, copyright, intellectual property rights and distribution rights of the Software remain exclusively with the Vendor. Intellectual property rights include the look and feel of the Software. This Agreement constitutes a license for use only and is not in any way a transfer of ownership rights to the Software.
4. Licensee may install and use the Software in quantities as set forth in Appendix 2 and make multiple back-up copies of the Software, solely for Licensee's business use.
5. The rights and obligations of this Agreement are personal rights granted to the Licensee and its affiliates only. The Licensee may not transfer or assign any of the rights or obligations granted under this Agreement to any other person or legal entity, except for to any of its affiliates or to an entity newly affiliated with Licensee as a result of a merger, reorganization, transfer of an

enterprise or change of control or ownership of the Licensee. The Licensee may not make available the Software for use by one or more third parties.

6. The Software may not be modified, reverse-engineered, or de-compiled in any manner through current or future available technologies.
7. The Software is licensed as a single product. Its components may not be separated for use on more than one Kubernetes cluster.
8. Failure to comply with any of the terms under the License section will be considered a material breach of this Agreement.

#### **License Fee**

9. Licensee will pay to Vendor then applicable fees described in the Append 1 for the Software in accordance with the terms therein ("Fees"). If Licensee's use of the Software exceeds License Quantity set forth on the Appendix 2 or otherwise requires the payment of additional fees (per the terms of this agreement), Licensee will be billed for such usage and Licensee agrees to pay the additional fees in the manner provided herein. Vendor reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of Service Term or then-current renewal term, upon thirty (30) days prior notice to Licensee (which may be sent by email). If Licensee believes that Vendor has billed Licensee incorrectly, Licensee must contact Vendor no later than 30 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Vendor's Licensee support department.
10. Vendor may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Vendor fifteen (15) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Licensee will be responsible for all taxes associated with Services other than U.S. taxes based on Vendor's net income.

#### **Warranty Disclaimer**

11. EXCEPT AS OTHERWISE SET FORTH IN SECTION 13, VENDOR, AND AUTHOR OF THE SOFTWARE, HEREBY EXPRESSLY DISCLAIM ANY WARRANTY FOR THE SOFTWARE. THE SOFTWARE AND ANY RELATED DOCUMENTATION IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. LICENSEE ACCEPTS ANY AND ALL RISK ARISING OUT OF USE OR PERFORMANCE OF THE SOFTWARE.

#### **Limitation of Liability**

12. NEITHER PARTY SHALL BE LIABLE TO THE OTHER, OR ANY OTHER PERSON OR ENTITY CLAIMING THROUGH A PARTY ANY LOSS OF PROFITS, INCOME, SAVINGS, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, DIRECT OR INDIRECT DAMAGE, WHETHER ARISING IN CONTRACT, TORT, WARRANTY, OR OTHERWISE. THESE LIMITATIONS SHALL APPLY REGARDLESS OF THE ESSENTIAL

PURPOSE OF ANY LIMITED REMEDY. UNDER NO CIRCUMSTANCES SHALL A PARTY'S AGGREGATE LIABILITY TO THE OTHER, OR ANY OTHER PERSON OR ENTITY CLAIMING THROUGH SUCH PARTY, EXCEED THE FINANCIAL AMOUNT ACTUALLY PAID BY LICENSEE TO VENDOR FOR THE SOFTWARE FOR THE THEN-CURRENT TERM.

**Warrants and Representations**

13. The Vendor warrants and represents that it is the copyright holder of the Software. The Vendor warrants and represents that granting the license to use this Software is not in violation of any other agreement, copyright or applicable statute.

**Acceptance**

14. All terms, conditions and obligations of this Agreement will be deemed to be accepted by the Licensee ("Acceptance") upon execution of this Agreement.

**Maintenance and Support**

15. The Licensee will be entitled maintenance and support as set forth in Appendix 3.

**Term**

16. Subject to earlier termination as provided below, this agreement is for Service Term as specified in Appendix 2 and will be automatically renewed for additional periods of the same duration as Service Term (collectively, "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term. The Service Term of this Agreement will begin on Acceptance. At the end of the term of this Agreement or the renewal period if applicable the Licensee must destroy all copies of the Software in their possession.

**Termination**

17. This Agreement will be terminated and the License forfeited, upon written notice by Vendor, where the Licensee has failed to comply with any of the material terms of this Agreement or is in material breach of this Agreement and has not remedied such default within 30 days of a notice of the default by the Vendor. The Licensee may also terminate the Agreement if the Vendor does not meet its obligations under the Agreement after a notice of default has been provided by the Licensee and the Vendor has not remedied such default within 30 days. Licensee will pay in full for the then-current Service Term. On termination of this Agreement for any reason, the Licensee will promptly destroy the Software or return the Software to the Vendor. All sections of this agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

**Force Majeure**

18. Neither party shall be under any liability for any loss or for any failure to perform any obligation hereunder due to causes beyond its control including without limitation industrial disputes of whatever nature, power loss, telecommunications failure, acts of God, or any other cause beyond its reasonable control. The affected party will notify, to the best of its ability, the other party in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a party's performance is delayed for a period exceeding ninety (90) days from the date the other party received notice under this paragraph, the non-affected

party will have the right, without any liability to the other party, to terminate this Agreement by giving ten (10) days written notice to the affected party.

#### **Audit**

19. During the term of this Agreement and for a period of one year thereafter, the Vendor may, during normal business hours and upon reasonable prior notice to Licensee, inspect the computer processors, Kubernetes clusters, equipment and facilities of Licensee to verify Licensee's compliance with this agreement. This Agreement does not grant Vendor or any third-party, by implication, estoppel, or otherwise, any right to inspect or examine any of Licensee's data, documents, instruments, financial statements, balance sheets, business records, software, systems, premises, or plants unrelated to this Agreement.

#### **Confidentiality; Proprietary Rights**

20. Each party ("**Receiving Party**") understands that the other party ("**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of Disclosing Party). Proprietary Information of Vendor includes non-public information regarding features, functionality and performance of Software. Proprietary Information of Licensee includes without limitation non-public data provided by Licensee to Vendor to enable the performance of Software ("**Licensee Data**"). Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of Services or as otherwise permitted herein) or divulge to any third person (except to its affiliates) any such Proprietary Information. Disclosing Party agrees that the foregoing will not apply with respect to any information after five (5) years following the termination of this Agreement, or any information that Receiving Party can document (a) is or becomes generally available to the public through no fault of Receiving Party, or (b) was in its possession or known (on a non-confidential basis) by it prior to receipt from Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of Disclosing Party or (e) is required to be disclosed by law. For the avoidance of doubt, disclosures hereunder by, to, or between the parties' respective affiliates shall also be treated as Proprietary Information.
21. Licensee will own all right, title and interest in and to Licensee Data. Vendor will own and retain all right, title and interest in and to (a) Software, all improvements, enhancements or modifications thereto, (b) any software, documentation, applications, inventions or other technology developed in connection with support, and (c) all intellectual property rights related to any of the foregoing.
22. Notwithstanding anything to the contrary, Vendor will have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of Software and related systems and technologies (excluding, information concerning Licensee Data and data derived therefrom), and Vendor will be free (during and after the term hereof) to (i) use such information and data to improve and enhance Software and for other development, diagnostic and corrective purposes in connection with the Software and other Vendor offerings, and (ii) disclose such data solely in an aggregated and anonymized or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

#### **Solicitation**

23. Licensee shall not solicit the employment of nor employ any Vendor personnel who has been directly involved in the development, sale, installation, or support of the Software for a period of 5 years from the later of the termination of such individual's employment at Vendor or the last date of Acceptance of any Software. This prohibition does not apply where any Vendor personnel seeks employment with Licensee in response to an advertisement placed into the public domain for that position unless Licensee has solicited, directly or indirectly, the application from that personnel for that position.

#### **Governing Law**

24. The Parties to this Agreement submit to the jurisdiction of the courts of the State of Nevada for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement. This Agreement will be enforced or construed according to the laws of the State of Nevada.

#### **Miscellaneous**

25. This Agreement can only be modified in writing signed by both the Vendor and the Licensee.
26. This Agreement does not create or imply any relationship in agency or partnership between the Vendor and the Licensee.
27. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
28. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
29. This Agreement contains the entire agreement between the parties. All understandings have been included in this Agreement. Representations which may have been made by any party to this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
30. This Agreement will be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns. Neither party may assign or transfer its rights or obligations under this Agreement without the other party's prior written consent (not to be unreasonably withheld or delayed); provided, however, that either party may assign this Agreement upon written notice without the other party's consent, in the event of a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the non-assigning party. Any other attempt to transfer or assign this Agreement will be null and void.

31. Failure by either party to exercise any right or remedy under this Agreement does not signify acceptance of the event giving rise to such right or remedy.

**Notices**

32. Unless otherwise agreed to by the parties, any notice required or permitted to be given or delivered under this Agreement shall be delivered to the address set forth in this Agreement, or at such addresses as may be later provided in writing. Notice shall be deemed to have been received by any party, and shall be effective, (i) on the day given, if personally delivered or if sent by electronic email, receipt verified or (ii) on the third day after which such notice is deposited, if mailed by certified, first class, postage prepaid, return receipt requested mail.

## Appendix 1

### Software Specification

KubeDB (<https://kubedb.com>) by AppsCode is a production-grade cloud-native database management solution for Kubernetes. KubeDB simplifies and automates routine database tasks such as provisioning, patching, backup, recovery, failure detection, and repair for various popular databases on private and public clouds. It frees the user to focus on user applications so the user can give them the fast performance, high availability, security and compatibility they need.

KubeDB provides the user with many familiar database engines to choose from, including PostgreSQL, MySQL, MongoDB, Elasticsearch, Opensearch, Kafka, RabbitMQ, Druid, Redis and Memcached. And the list is growing. KubeDB's native integration with Kubernetes makes it a unique solution compared to competitive solutions from cloud providers and database vendors.

Features	
Database Clustering	√
Cloud / On-prem / Air-gapped clusters	√
Multizone Cluster	√
Private Registry	√
CLI	√
Halt & resume database	√
Custom Configuration	√
Custom Extensions	√
Prometheus Metrics	√
Protect against accidental deletion	√
Managed Patch Upgrades	√
Managed Horizontal Scaling	√
Managed Vertical Scaling	√
Managed Volume Expansion	√
Managed Reconfiguration	√
Managed Restarts	√
Security	
Role Based Access Control (RBAC)	√
Pod Security Policy (PSP)	√
Network Policy	√

Managed TLS using <a href="#">cert-manager</a>	√
<b>Managed Backup/Recovery using Stash</b>	
Logical Backups	√
Backup deduplication	√
Backup Encryption	√
Snapshot life-cycle management	√
Point-in-time (PITR) recovery	√



## Appendix 2

### Order Form

**Service Term:** 30 (Thirty) Days

**Licensee Fee.**

AppsCode Cloud edition costs the following amount for various components.

KubeDB: \$5/month per GiB memory limit set to a database container. For clustered database instances, the total fees will be the number of replicas times the fees for a single replica.

KubeStash/Stash: No additional fees when used as a component of KubeDB.

KubeStash/Stash: \$150/month per Kubernetes worker node when used standalone without in conjunction with KubeDB.

KubeVault: \$150/month per Kubernetes worker node.

Voyager: \$150/month per Kubernetes worker node.

### **Appendix 3**

#### **Support Service Level Agreement**

##### **Maintenance Term.**

The Licensee will be entitled to maintenance upgrades and bug fixes, at no additional cost on Acceptance. Maintenance and Support services shall begin on Acceptance and will continue for the Service Term subject to earlier termination as provided above and will be automatically renewed for additional periods of the same duration as Service Term, unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

##### **Technical Support.**

The Licensee will be entitled to technical support for the Software during Vendor's standard technical support hours (Mon - Fri 9am - 6pm UTC+6 timezone (Bangladesh Standard Time) excluding local Bangladesh Holidays). Such technical support will include (i) email responses to inquiries about the use, function and operation of the Software, (ii) the resolution of Software errors and/or bugs reported to Vendor by Licensee. Licensee will identify a number of members of its technical staff and at least one alternate to act as the primary technical liaison responsible for all communications with Vendor's technical support representatives. Licensee may substitute contacts within its technical staff at any time by providing to Vendor prior email notice thereof.

Vendor will communicate with the Licensee about duly reported Software errors and/or bugs via email as a best effort basis. Licensee acknowledges that Vendor's performance or the maintenance and support services is subject to receipt of Licensee's information to detailing the problem.

Licensee acknowledges and agrees that for Vendor to provide the technical support as set forth in this Appendix, it may be necessary for Licensee to provide to Vendor remote access to Licensee's development or run time platform, as mutually agreed upon the parties. Access to Licensee's platform is restricted to support purposes only.

##### **Schedule of Rates**

The remote debugging(via Zoom) sessions requested by the Licensee for technical support will be billed as USD 125/hr.