



RUBRIK, INC. END USER LICENSE AGREEMENT

IMPORTANT: READ THIS END USER LICENSE AGREEMENT (“AGREEMENT”) BEFORE INSTALLING OR USING THE RUBRIK HARDWARE AND SOFTWARE (“RUBRIK PRODUCTS”). THIS AGREEMENT APPLIES TO THE RUBRIK PRODUCTS AND SERVICES THAT YOU OR THE ENTITY THAT YOU REPRESENT (“YOU” OR “YOUR”) OBTAIN FROM RUBRIK, INC. (“RUBRIK”) OR FROM ANY THIRD PARTY AUTHORIZED BY RUBRIK TO RESELL THE RUBRIK PRODUCTS AND SERVICES. BY DOWNLOADING, INSTALLING OR USING THE RUBRIK PRODUCTS OR BY CLICKING “ACCEPT” YOU AGREE TO ALL THE TERMS OF THIS AGREEMENT WITH RUBRIK. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT COPY, INSTALL OR USE THE RUBRIK PRODUCTS.

1. DEFINITIONS.

- 1.1 **“Documentation”** means the Rubrik documentation shipped with the Products or made available in electronic form to you, excluding advertising or marketing materials.
- 1.2 **“Effective Date”** means the date you accept the terms of this Agreement.
- 1.3 **“Hardware”** means hardware purchased by you from Rubrik.
- 1.4 **“Services”** means the implementation, configuration and training services that may be purchased and provided to you by Rubrik and as described in an applicable Order and associated Documentation. Services do not include support services which are provided to you in accordance with the Policy.
- 1.5 **“Order”** means the purchase order or other agreed upon document, which includes, but is not limited to, a description of the Products, Services and support purchased by you from a Rubrik authorized reseller.
- 1.6 **“Policy”** means Rubrik’s product Warranty and Support Services Policy as made available to you. If you are only licensing Rubrik Software and not acquiring hardware from Rubrik, the Rubrik Software Support Services Policy at <https://www.rubrik.com/wp-content/uploads/2018/03/Rubrik-Support-Services-Policy.pdf> applies. If you are acquiring both Software and Hardware from Rubrik, the Rubrik Hardware Warranty and Product Support Services Policy at <https://www.rubrik.com/wp-content/uploads/2019/02/Rubrik-Hardware-Warranty-and-Product-Support-Services-Policy.pdf> applies.
- 1.7 **“Products”** means, collectively, Rubrik Hardware and Software.
- 1.8 **“Software”** means, collectively, Rubrik Cloud Data Management Software (“**RCDM**”) (Rubrik’s standard embedded firmware and software), standalone software downloaded or accessed by you from Rubrik, and Software Add-Ons licensed to you. Software also includes all Updates, Upgrades, copies and alterations, modifications and derivatives thereof. Software is licensed only in object code and includes any third party or open source software included with the Software.
- 1.9 **“Software Add-Ons”** means software offering enhanced features and functionality to the RCDM including, for example, CloudOn, CloudOut and Edge.
- 1.10 **“Term”** means the period of time from the Effective Date until the end of the applicable license term as set forth on the Order, including any renewal thereof.
- 1.11 **“Updates”** mean patch releases, “bug” fixes, and maintenance updates for the Software.
- 1.12 **“Upgrades”** mean new features included in software products which you may purchase during the Term and which are subject to an additional charge.

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2. SOFTWARE LICENSE.

2.1 **Software License.** Subject to your compliance with the terms and conditions of this Agreement and your payment of all fees due, Rubrik grants you a limited, non-exclusive, non-sublicensable, non-transferable (except as may be expressly permitted herein) license to use the Software and Documentation only for your internal business purposes on Hardware or Rubrik-approved third-party hardware and in accordance with the Documentation. All Software is licensed in object code only.

2.2 **Term of License.** Unless otherwise agreed to in writing by Rubrik, Software is licensed in accordance with the terms of the applicable Order and either: (i) on a device basis meaning your right of use to the Software is tied to the life of the Hardware on which it was originally installed and the Software is not portable to new hardware, except as may be expressly approved in advance in writing by Rubrik (“**Life of Device License**”); or (ii) on a subscription basis meaning you have the right to use the Software for the period of time set forth in the applicable Order, and any renewals thereto (“**Subscription License**”). If you do not renew your Subscription License at the end of the subscription term, you lose entitlement to all Software features except for recovery.

2.3 **Hardware Refresh Policy.** Certain of the Subscription Licenses may be eligible for a Hardware refresh or transfer to replacement hardware in accordance with Rubrik’s then-current Hardware Refresh Policy linked here <https://www.rubrik.com/wp-content/uploads/2019/02/Rubrik-Go-Hardware-Refresh-Policy.pdf> or as otherwise authorized by Rubrik in writing.

3. USE RESTRICTIONS.

You will not, nor will you encourage or assist others to:

- i. Copy, modify, encumber or distribute the Software or Documentation (except for reasonable amount of copies for internal use);
- ii. Reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or structure, sequence and organization of the Software or create any derivative works including, without limitation, customization, translation or localization;
- iii. Sell, license, sublicense, rent, lease, lend or transfer the Software or use the Software for timesharing or service bureau purposes;
- iv. Remove or obscure any proprietary notices on the Software or Documentation;
- v. Publish or disclose to any third party any technical features, performance or benchmark tests, or comparative or competitive analyses relating to the Software and Early Access Products unless authorized in writing by Rubrik; or
- vi. Use any feature, function or capability without first purchasing the applicable license for same even if such feature, function or capability is enabled without a key.

4. **PROPRIETARY RIGHTS.** Software and Documentation are licensed to you and not sold. Rubrik and its licensors retain all title, ownership rights, and intellectual property rights in and to the Software (including third party and open source software), and Documentation, in any form or format, along with all copies, and all tools, routines, programs and other technology used or provided in the provision of Support Services. The Software and Documentation are protected by copyright and other intellectual property laws and by international treaties. The Software contains automated reporting routines that generate and report to Rubrik usage metrics and statistics regarding the performance of the Product to report problems and issues with the Product and provide information back to Rubrik. You hereby grant Rubrik with a perpetual, irrevocable and transferable right to use this information to improve the Software and the customer experience. This Agreement does not grant you any rights not expressly granted herein. All trademarks used in connection with the Software and Documentation are owned by Rubrik, its affiliates and its licensors and other suppliers, and no license to use any such trademarks is provided hereunder. You may from time to time elect to provide suggestions, comments for enhancements or functionality or other feedback to Rubrik with respect to the Products and support services (“**Feedback**”). Rubrik may use any Feedback as it sees fit without obligation or restriction of any kind, other than its obligations of confidentiality.

5. **FEES.** All amounts due and owing under an Order to Rubrik’s authorized distributor or channel partner (along with all taxes, tariffs, and duties) are payable to and in accordance with the requirements of the authorized channel partner or distributor.

6. **AUDIT.** During the Term and for a minimum of three (3) years thereafter, Rubrik (or its independent third-party auditors) has the right to reasonably audit your facilities, systems and relevant books and records to confirm your compliance with this Agreement. Rubrik may conduct no more than one (1) audit per twelve (12) month period and you shall reasonably cooperate with Rubrik (or its independent third-party auditors) for such audit. If an audit discloses you have installed, accessed, used, or otherwise permitted use and access to the Software in a manner that is not permitted expressly by this Agreement, you agree to promptly remedy any non-compliance

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with this Agreement. You agree to reimburse Rubrik immediately for any unpaid license fees (if applicable). If such audit reveals underpayment or non-compliance in excess of 5% of fees payable by you, you agree to reimburse Rubrik for all of Rubrik's reasonable expenses related to such audit.

7. EARLY ACCESS PRODUCTS. Rubrik may make available to you a beta or pre-release version of Software solely for purposes of internal testing and evaluation prior to such Software being made generally available ("**Early Access Products**"). Early Access Products are licensed on a limited, cost-free, non-sublicensable, non-transferable, non-assignable, non-exclusive, revocable basis with such license terminating on the earlier of: (i) the date on which Rubrik makes the Early Access Product generally available; or (ii) upon notice to you from Rubrik, which notice may be made at any time in its sole and absolute discretion. Notwithstanding anything to the contrary in this Agreement, you acknowledge and agree that Early Access Products (a) shall not be used in a production environment, (b) are still under development and not at the level of performance or compatibility of final, generally available products; (c) may not operate correctly; (d) may be modified by Rubrik prior to being made generally available; (e) may not be made available for general release, and (f) are not subject to the Policy. You further agree to use reasonable efforts to notify Rubrik of any bugs or problems in the Early Access Products.

8. CONFIDENTIALITY. You and Rubrik may disclose Confidential Information to each other during the Term of the Agreement. "**Confidential Information**" means all information disclosed by one party ("**Disclosing Party**") to the other party ("**Receiving Party**") which is in tangible form and labeled "confidential" or the like, or that reasonably should be understood to be confidential given the circumstances around the disclosure and the nature of the information. Confidential Information includes, but is not limited to, the Software, Documentation, strategic roadmaps, product plans, product designs and architecture, technology and technical information, security processes, security audit reviews and business and marketing plans. Confidential Information will not include information that: (i) was already in Receiving Party's possession without confidentiality obligations; (ii) is rightfully received by Receiving Party without confidentiality obligations; (iii) is independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information; or (iv) is publicly disclosed by the Disclosing Party. The Receiving Party will exercise at least the same degree of care, but not less than reasonable care, to safeguard the Confidential Information received from the Disclosing Party and use or disclose Confidential Information only to the Receiving Party's employees, partners or contractors for purposes consistent with this Agreement, who have a need to know and who are under a similar obligation of confidentiality. Confidential Information may be disclosed in response to a subpoena or order of a court or governmental agency provided, however, that, if not otherwise prohibited, the Receiving Party will notify the Disclosing Party promptly of such disclosure to enable the Disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure.

9. SUPPORT. Support for the Products is covered in the applicable Policy, which is incorporated by reference into this Agreement, and may be updated from time to time in Rubrik's sole discretion.

10. SERVICES. Rubrik may provide Services as described in an Order accepted by Rubrik. Services may be performed by sub-contractors acting on Rubrik's behalf. In regard to the Services, Rubrik warrants that: (i) it and each of its employees, consultants and subcontractors, if any, have the necessary knowledge, skills, experience, qualifications and resources to provide and perform the Services; and (ii) the Services will be performed in a professional and workmanlike manner in accordance with industry standards. Rubrik shall own all rights, title and interest in and to any deliverables provided to you and related intellectual property rights (excluding your Confidential Information), unless otherwise set forth in a mutually agreed upon Statement of Work. As a condition to Rubrik's obligations to provide Services hereunder, you shall: (a) provide good faith cooperation and access to such information, facilities, and equipment as may be reasonably required in order to provide the Services; and (b) provide such personnel assistance as may be reasonably requested from time to time. If through no fault or delay by you or any failure by you or your representatives to perform in accordance with this section, the Services do not conform to the foregoing warranty, and you notify Rubrik within seven (7) calendar days of Rubrik's completion of the Services, Rubrik will re-perform the non-conforming portions(s) of the Services at no additional cost to you.

11. WARRANTY AND DISCLAIMER.

11.1 Software Warranty. Rubrik warrants to you for ninety (90) days from the date of delivery ("**Software Warranty Period**"), the Software will conform in all material respects to the applicable Documentation ("**Software Warranty**"). Rubrik's delivery of any Update does not extend the Software Warranty Period applicable to the Software. Rubrik's sole obligation under this Software Warranty, and your exclusive remedy, is to use commercially reasonable efforts to correct the Software during the Software Warranty Period such that the Software complies with the foregoing warranty. Your obligation is to provide all information reasonably requested to enable Rubrik to cure the deficiencies. If Rubrik is not able to correct deficiencies in the Software such that it complies with the foregoing warranty,

Rubrik will refund to you as follows: (i) applicable fees paid for a Life of Device License to the Software; and (ii) for a Subscription License, applicable fees paid covering the period from the date of refund through the conclusion of the period of prepayment. In the event of a refund in accordance with the foregoing, your right to use the Software for which fees were refunded terminates. The Software Warranty does not apply to any Software that is: (a) installed, operated, maintained, stored or used improperly, or in any manner not in accordance with the Documentation, the Policy, this Agreement or Rubrik's written instructions; or (b) repaired, altered or modified other than by Rubrik or its authorized service provider.

11.2 No warranty or support for Early Access Products. Rubrik provides Early Release Products for evaluation only and on an "AS IS" basis, without warranty or liability of any kind.

11.3 Disclaimer of Warranties. EXCEPT AS PROVIDED IN THIS AGREEMENT, RUBRIK, AND LICENSORS PROVIDE THE PRODUCTS, SERVICES, SUPPORT SERVICES, ANY EARLY ACCESS PRODUCT, AND DOCUMENTATION ON AN "AS-IS" BASIS. RUBRIK DISCLAIMS ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. RUBRIK DOES NOT WARRANT AGAINST LOSS OR INACCURACY OF DATA, THAT THE OPERATION OF THE PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE PRODUCTS WILL BE COMPATIBLE WITH ANY THIRD-PARTY SOFTWARE OR HARDWARE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. RUBRIK, ITS SUPPLIERS AND LICENSORS ARE NOT LIABLE OR RESPONSIBLE FOR ANY WARRANTIES EXPRESS OR IMPLIED PROVIDED BY A DISTRIBUTOR, CHANNEL PARTNER OR OTHER THIRD PARTY.

12. INTELLECTUAL PROPERTY INDEMNITY.

12.1 Intellectual Property Indemnification. Rubrik agrees to defend or settle, at Rubrik's option, a third-party claim or cause of action against you alleging that the Products infringe or misappropriate a U.S. patent or copyright of such third party ("**Claim**") and to pay damages finally awarded against you by a court of competent jurisdiction or as agreed to in a settlement. Rubrik's obligations hereunder do not apply with respect to any Claim that arises out of: (i) any unauthorized use, reproduction or distribution of the Products; (ii) use of the Products in combination with any other software or equipment not specified by the Documentation if such Claim would have been avoided without such combination; (iii) Products that were modified after delivery without Rubrik's prior written authorization; or (iv) your continued use of the allegedly infringing Product after Rubrik supplied a modified or replacement non-infringing Product. If any Claim arises, Rubrik may, at its sole option and expense: (a) replace or modify the affected Product to make it non-infringing; (b) procure a license for your continued use of the affected Product; or, if (a) and (b) are not commercially viable (as determined by Rubrik in its sole discretion), terminate this Agreement, in which case you will be entitled to a pro-rated refund of the applicable fee paid for the affected Software which is the subject of the Claim. For Life of the Device licensed Software, the refund will be based on a straight-line amortization over a three (3) year term beginning on the date of initial delivery of the Software. For Subscription licensed Software, the refund will be the prepaid and unearned fees covering the remainder of the term.

12.2 Indemnification Process. As a condition of receiving indemnity as described in Section 12.1 above, you will provide Rubrik with: (i) prompt written notice of the Claim, provided, however, that the failure to give such notice shall not relieve Rubrik's obligations hereunder except to the extent that Rubrik is prejudiced by such failure; (ii) complete control over the defense and settlement of the Claim (provided, that Rubrik will not settle any claim without your prior written permission if the settlement fails to unconditionally release you from all liability pertaining to the Claim, such permission not to be unreasonably withheld, delayed or conditioned); and (iii) reasonable assistance in connection with the defense and settlement of the Claim.

12.3 Exclusive Remedy. This Section 12 states your sole and exclusive remedy against, and Rubrik's sole liability for any Claim under this Section.

13. LIMITATION OF LIABILITY.

13.1 Disclaimer of Consequential Damages. EXCEPT IN THE CONTEXT OF A LIABILITY ARISING FROM A BREACH OF RUBRIK'S INTELLECTUAL PROPERTY RIGHTS IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, COVER, LOST PROFITS OR REVENUE, LOSS OR CORRUPTION OF DATA OR THE COST OF COVER, HOWEVER CAUSED, WHETHER BASED IN CONTRACT, TORT, WARRANTY, NEGLIGENCE OR ANY OTHER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW

THE EXCLUSION OF INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES. IN SUCH AN EVENT, THIS EXCLUSION WILL NOT APPLY TO THE EXTENT THE EXCLUSION IS PROHIBITED BY LAW.

13.2 Limitation of Liability. IN NO EVENT WILL RUBRIK, ITS AFFILIATES AND ITS LICENSORS TOTAL AND CUMULATIVE LIABILITY, FOR ALL CLAIMS OF ANY NATURE ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL FEES PAID BY YOU TO RUBRIK (OR TO A RUBRIK DISTRIBUTOR OR RESELLER) FOR THE PRODUCTS IN THE TWELVE (12) MONTHS PRECEDING THE DATE OF THE FIRST EVENT GIVING RISE TO LIABILITY UNDER THIS AGREEMENT. THE FOREGOING LIMITATION DOES NOT LIMIT OR EXCLUDE ANY LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE.

14. TERM AND TERMINATION.

14.1 Term; Termination for Cause. This Agreement begins on the Effective Date and continues until the end of the Term. Notwithstanding the foregoing, a party may terminate this Agreement if the other party: (i) materially breaches this Agreement and such breach is not cured within thirty (30) days of such party's receipt of written notice describing the breach; or (ii) becomes insolvent, admits in writing of its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, becomes subject to control of a trustee, receiver or similar authority, or becomes subject to any bankruptcy or insolvency proceeding.

14.2 Post-Termination Obligations. Upon expiration or termination of this Agreement, the license granted hereunder will immediately terminate and you will stop using the Software. You will de-install and destroy the Software and Documentation or undertake such actions as to ensure that the Software and Documentation will not be used after the effective date of termination. All terms of this Agreement which must survive in order to fulfill their essential purpose shall survive termination or expiration of this Agreement.

15. GENERAL.

15.1 Contractual Relationship. You and Rubrik are entering into this Agreement as independent contracting parties. Neither you nor Rubrik have, or hold itself out as having, any right or authority to incur any obligation on behalf of the other.

15.2 Assignment. You will not, directly, indirectly, by operation of law or otherwise, assign all or any part of this Agreement or your rights hereunder or delegate performance of any of your duties hereunder without the prior written consent of Rubrik. Rubrik may assign this Agreement without obtaining your consent: (i) to an affiliate of Rubrik; or (ii) to a successor in interest in connection with a merger, reorganization or a sale of all or substantially all of the assets of Rubrik. Any assignment in violation of the foregoing shall be void and without effect. Subject to the foregoing restrictions, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by the parties and their permitted successors and assigns.

15.3 Export Controls and Trade Laws. You will comply with all applicable laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and economic sanctions programs implemented by the Office of Foreign Assets Control. Without limiting the foregoing, you agree you will not export, re-export, download, or otherwise transmit Confidential Information or the Products: (i) to any country or region subject to a U.S. embargo or comprehensive trade sanctions; (ii) to any individual or entity identified on any U.S. Government restricted party lists (including the Consolidated Sanctions, Specially Designated Nationals, Denied Persons, Entity, or Unverified Lists); or (iii) to any end user with knowledge or reason to know that the Software or Confidential Information will be used for nuclear, chemical, or biological weapons proliferation, or for missile-development purposes.

15.4 Third Party Beneficiaries. Nothing in this Agreement shall confer, or is intended to confer, on any third party any benefit or the right to enforce any term of this Agreement.

15.5 Government Users. The Products constitute Commercial Off the Shelf ("COTS") items as that term is defined in the U.S. Government Federal Acquisition Regulations ("FAR"). Government use rights are limited to those minimum rights required by the appropriate provisions of the FAR.

15.6 Anti-corruption. You agree that you have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Rubrik's employees, agents, resellers or subcontractors in connection with this Agreement and that you will use reasonable efforts to promptly notify Rubrik should you learn of any violation of this restriction.

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15.7 **Severability.** In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision will be interpreted so as reasonably to affect the intent of the parties.

15.8 **Nonwaiver.** The failure of you or Rubrik to insist upon or enforce strict performance of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement will not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision, right or remedy in that or any other instance; rather, the same will remain in full force and effect.

15.9 **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations under this Agreement on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, governmental action, labor conditions, earthquakes, volcanic eruptions, material shortages or any other cause that is beyond the reasonable control of the party.

15.10 **Integration; Order of Precedence.** This Agreement constitutes the entire agreement between you and Rubrik and supersedes any and all prior agreements or communications between us with regard to the subject matter hereof. This Agreement may not be amended or modified except by a writing signed by both you and Rubrik. The terms of this Agreement shall supersede and control over any conflicting or additional terms and conditions of any purchase order, acknowledgement, confirmation or other document issued by you. Notwithstanding any agreement you may have previously accepted during the installation of any prior versions of the Software, this Agreement applies to the Software and any Updates or Upgrades (except to the extent such Updates or Upgrades are accompanied by new or additional terms, in which case the different terms apply prospectively and do not alter your or Rubrik's rights relating to pre-updated Software).

15.11 **Ambiguities.** You and Rubrik have participated in the review of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

15.12 **Governing Law.** This Agreement shall be construed and enforced in all respects in accordance with the laws of the State of California, U.S.A., without applying conflict of law rules. Unless waived by Rubrik in a particular instance, the sole and exclusive jurisdiction and venue for actions arising out of this Agreement shall be the State and Federal Courts in Santa Clara County. The United Nation Convention of Contracts for the International Sale of Goods (1980) is hereby excluded in its entirety from application to this Agreement.