

## RUBRIK END USER AGREEMENT

### **IMPORTANT: PLEASE READ BEFORE INSTALLATION OR USE OF THE RUBRIK, INC. (“RUBRIK”) PRODUCT (AS DEFINED BELOW).**

1. PURCHASE OF HARDWARE. 1.1 This Agreement is entered into in connection with the End User’s purchase of Rubrik’s converged data management solution consisting of on-premises hardware and software (individually, “**Hardware**,” “**Software**” or, collectively, “**Product**”) that End User has purchased from Rubrik, in accordance with the purchase order or other order form pursuant to which the Product is delivered to the End User (“Order Form”).

1.2 Software is licensed and not sold. Software consists of Rubrik’s standard embedded software, its virtual appliance (“**Virtual Appliance**”) and certain available subscription software add-ons offering enhanced features and functionality (“**Software Add-ons**”). Software excludes third party software provided with the Software. Third party software may be governed by separate license terms which are available on request and applicable provision of this Agreement.

1.3 Title and risk of loss for the Hardware pass to End User upon delivery thereof by Rubrik to a common carrier.

### 2. RIGHT TO USE THE SOFTWARE.

2.1 *Software License Grant.* Subject to the terms of this Agreement, Rubrik hereby grants End User a limited, non-sublicensable, non-transferable, non-exclusive license to use:

- the Software (including the third party software) in conjunction with and to operate the Hardware only for End User’s internal business purposes in accordance with the user manuals, training materials, product descriptions and specifications and other printed information relating to the Product, as in effect and generally available from Rubrik, in written or electronic form (expressly excluding marketing and sales collateral and materials) (“**Documentation**”) and and third party license terms; and
- the Documentation to operate the Product only as expressly permitted herein.

2.2 *Scope of License.* For clarity, the license granted herein only applies to that Software and/or features and functionality for which End User has procured a valid license and paid the corresponding fees, and only during the relevant subscription terms (or, if no term is designated, until terminated in accordance with Section 9).

2.3 *Proprietary Rights.* As between the parties, title, ownership rights, and intellectual property rights in and to the Software, third party software and Documentation, and any copies or portions thereof, shall remain in Rubrik and its suppliers or licensors. The Software and Documentation are protected by the copyright and other intellectual property laws, and this Agreement does not grant End User any rights not expressly granted herein.

### 3. USE OF THE HARDWARE, SOFTWARE AND DOCUMENTATION.

3.1 *Certain Restrictions.* Except as expressly and unambiguously permitted by this Agreement, End User shall not, nor permit anyone else to, directly or indirectly:

- copy, modify, or distribute the Software or Documentation;
- reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or structure, sequence and organization of the Software or Hardware (except where the foregoing is expressly prohibited by applicable local law, and then only to the extent so prohibited);
- rent, lease, or use the Hardware or Software for timesharing or service bureau purposes, or otherwise use the Hardware or Software on behalf of any third party (including as part of a managed service offering);
- remove or obscure any proprietary notices on the Hardware, Software or Documentation and include such notices on all authorized copies of the Software or Documentation;
- use the Hardware or Software for performing comparisons or other “benchmarking” activities, either alone or in connection with any hardware or software; or
- use the Hardware or Software for any purpose not expressly and unambiguously authorized herein (including, without limitation, for any purpose competitive with Rubrik).

However, the foregoing is not intended to limit or modify the terms of any applicable license that applies to third party software.

3.2 *Support Services*. Except for limited Product Warranty (as described in Rubrik’s Support Services Policy), this Agreement does not entitle End User to any technical support, updates, upgrades, patches, enhancements, new versions, new functionality or fixes for the Product. End User may purchase Support Services from Rubrik (as described in Rubrik’s Support Policy) which will be performed in accordance with the Rubrik’s Support Services Policy.

3.3 *Reporting; Feedback*. End User acknowledges the Software contains automated reporting routines that generate and report to Rubrik de-personalized metrics and statistics regarding the performance of the Product to report problems and issues with the Product and provide information back to Rubrik (“**Report**”) Rubrik will own all right, title and interest in and to any data and information it so collects (and End User hereby makes all assignments necessary to accomplish such ownership). End User may from time to time provide suggestions, comments for enhancements or functionality or other feedback (“**Feedback**”) to Rubrik with respect to the Product for which End User grants Rubrik, without charge or accounting, the full, unencumbered, paid-up, perpetual, irrevocable right and license to use, share, modify, commercialize and otherwise fully exercise and exploit such Feedback and all related intellectual property or other rights (and to allow others to do so) for any purpose in connection with its products and services.

4. **CONFIDENTIALITY**. End User acknowledges that the Product including its features and functionality, and all Documentation and other related information are confidential to Rubrik, its suppliers and licensors (“Confidential Information”), and End User agrees at all times to protect and preserve in strict confidence all such Confidential Information and use it only as expressly permitted herein. End User agrees not to permit or authorize access to or disclosure of any such Confidential Information to any person other than employees of End User who are bound in writing to terms no less restrictive than this Agreement and have a need to know such Confidential Information to use the Product as permitted by this Agreement except when required by law to disclose (i.e. FOIA). End User will notify Rubrik promptly of any unauthorized disclosure or use of Confidential Information, remains liable and responsible for any unauthorized use or disclosure of Confidential Information and will undertake all reasonably required remedial action at Rubrik’s request.

5. **FEES**.

5.1 *Payment and Taxes.* End User shall pay Rubrik ) the applicable purchase price for the Rubrik Solution and for Support Services as set forth in the applicable Order Form. All amounts are non-refundable and payable in US dollars on the date they come due without set-off or deduction.

5.2 *Audit.* During the term hereof and for a minimum of three (3) years thereafter, Rubrik or an independent third party auditor selected by Rubrik shall have the right to reasonably inspect and audit End User's facilities, systems and relevant books and records to confirm End User's compliance with the terms of this Agreement subject to any security requirements. If such audits disclose that End User has installed, accessed, used, or otherwise permitted access to the Product in a manner that is not permitted by the terms of this Agreement

## 6. **DISCLAIMERS.**

**DISCLAIMERS.** EXCEPT AS EXPRESSLY STATED HEREIN, RUBRIK, ITS SUPPLIERS AND LICENSORS, DISCLAIM ALL WARRANTIES WITH RESPECT TO THE RUBRIK SOLUTION AND DOCUMENTATION, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW, REPRESENTATION, STATEMENTS, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. END USER ACKNOWLEDGES AND AGREES THAT RUBRIK, ITS SUPPLIERS AND LICENSORS, DO NOT WARRANT THAT THE PRODUCT OR DOCUMENTATION WILL MEET END USER'S REQUIREMENTS, BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE. RUBRIK, ITS SUPPLIERS AND LICENSORS, DO NOT MAKE ANY WARRANTY AS TO THE RESULTS WHICH MAY BE OBTAINED FROM THE USE OF THE PRODUCT OR DOCUMENTATION. This clause does not limit or disclaim any of the warranties specified in the GSA Schedule 70 contract under FAR 52.212-4(o). In the event of a breach of warranty, the U.S. Government reserves all rights and remedies under the contract, the Federal Acquisition Regulations, and the Contract Disputes Act, 41 U.S.C. 7101-7109.

7. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL RUBRIK OR ITS SUPPLIERS, LICENSORS OR PARTNERS BE LIABLE TO END USER OR ANY OTHER PERSON FOR ANY OF THE FOLLOWING:

- ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR LOSS OR CORRUPTION OF DATA OR THE COST OF COVER; OR
- ANY AMOUNT IN THE AGGREGATE IN EXCESS OF THE FEES PAID BY END USER FOR THE APPLICABLE PRODUCT IN THE TWELVE (12) MONTHS PRECEDING THE DATE THE CLAIM AROSE, OR, IF GREATER, ONE THOUSAND DOLLARS (\$1,000).

THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF RUBRIK SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. However, the foregoing limitations shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

**INDEMNITY.** Rubrik agrees to defend to the extent permitted by 28 U.S.C. 516 or settle, at Rubrik's option, a third party claim or cause of action against the End User alleging that the Product infringes or misappropriates a U.S. patent or copyright of such third party ("**Claim**") and to pay damages finally awarded against the End User or to pay settlement amounts directly resulting from such Claim, provided Rubrik is promptly notified of such Claim, is given sole control of the defense and settlement of the Claim and End User provides to Rubrik all reasonable assistance. Rubrik will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to any Hardware or Software or portions or components thereof:

- not supplied by Rubrik;
- made in whole or in part in accordance with End User specifications;
- modified after delivery by Rubrik;
- combined with other products, processes or materials where the alleged infringement relates to such combination;
- where End User continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; or
- where End User's use of such Hardware or Software is not strictly in accordance with this Agreement.

7.1 If any such infringement claim arises, Rubrik may, at its sole option and expense, (a) replace or modify the affected Hardware or Software to make it non-infringing with no less functionality, (b) procure a license for End User's continued use of the affected Hardware or Software or (c) if neither of the foregoing is commercially practicable, require the return of the affected Hardware or Software, and terminate this Agreement and End User's rights hereunder. The provisions of this Section 8 set forth Rubrik's sole and exclusive obligations, and End User's sole and exclusive remedies, with respect to any claims of infringement or misappropriation of third party intellectual property rights of any kind.

## 8. TERM AND TERMINATION.

8.1 *Term.* This Agreement shall continue until the end of the applicable license term designated by Rubrik or as otherwise terminated as set forth in this section.

### 8.2 *Termination.*

8.3 *Effects of Termination.* Upon termination of this Agreement for any reason, the license granted hereunder will terminate and End User shall destroy and remove from all computers, hard drives, networks and other storage media all copies of the Software and documentation and shall so certify to Rubrik that such actions have occurred. Sections 2.3, 3.3, 4, 5, 6.6, 7, 8, 9.3, 10, 11 and 12, and all accrued rights to payment, shall survive termination of this Agreement.

9. **GOVERNMENT USE.** If End User is part of an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software is restricted in accordance with the Federal Acquisition Regulations as applied to civilian agencies and the Defense Federal Acquisition Regulation Supplement as applied to military agencies. The Software is a "commercial item," "commercial computer software" and "commercial computer software documentation." In accordance with such provisions, any use of the Software by the Government shall be governed solely by the terms of this Agreement.

10. **COMPLIANCE AND EXPORT CONTROLS.** End User will comply with all applicable laws and regulations, including, without limitation, the all privacy laws, regulations and directives and the U.S. Foreign Corrupt Practices Act (including, without limitation, not offering any inducement, whether money

or goods or services, to any government official, employee, candidate or party). End User shall comply with all export laws and restrictions and regulations of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control (“OFAC”), or other United States or foreign agency or authority, and End User shall not export, or allow the export or re-export of the Hardware or Software or any related technical information in violation of any such restrictions, laws or regulations. End User represents and warrants that End User is not located in, under the control of, or a national or resident of any restricted country.

11. **MISCELLANEOUS.** Written notice is effective when delivered or rejected at the address a party last notified the other party in writing. Rubrik’s third party suppliers or licensors are third party beneficiaries hereunder with respect to their respective product or software and reserve the right to assert claims for infringement or misappropriation of their intellectual property rights by Reseller or its End User. This Agreement represents the complete agreement concerning the Product between the parties, to the exclusion of any pre-printed or contrary terms of any End User purchase order (or similar document), and supersedes all prior agreements and representations between them. This Agreement may be amended only by a writing executed by both parties. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable. The failure of Rubrik to act with respect to a breach of this Agreement by End User or others does not constitute a waiver and shall not limit Rubrik’s rights with respect to such breach or any subsequent breaches. This Agreement is personal to End User and may not be assigned or transferred for any reason whatsoever, without Rubrik’s consent, and any action or conduct in violation of the foregoing shall be void and without effect. Rubrik expressly reserves the right to assign this Agreement and to delegate any of its obligations hereunder. This Agreement shall be governed by and construed under the federal laws of the United States, and The U.N. Convention on Contracts for the International Sale of Goods shall not apply.