ONLINE MASTER ORDERING AGREEMENT

Last Updated: July 31, 2023

Prior versions of Master Ordering Agreement is available here.

This Online Master Ordering Agreement (this "**Agreement**") is entered into by and between the entity agreeing to these terms ("**Customer**") and Yugabyte, Inc. ("**Yugabyte**") (Customer and Yugabyte each, a "**party**" and collectively, the "**parties**") and sets forth the terms and conditions under which Customer may subscribe to or license certain products and services of Yugabyte as set forth in one or more order forms or other ordering documents executed by the parties that reference this Agreement (each, an "**Order Form**"). This Agreement is effective as of the date Customer agrees to it, pursuant to an Order Form ("**Effective Date**").

1. **YUGABYTE PRODUCTS AND SERVICES**
    1.1. **Provision of Products and Services**. Subject to the terms and conditions of this Agreement, to the extent ordered in an Order Form, Yugabyte will provide Customer with: (a) Yugabyte's software in object code form ("**Software**") to be installed on Customer's or its hosting provider's systems in accordance with the terms and conditions set forth in Exhibit A ("**Installed Software**"); (b) the online managed database-as-a-service products and services on a subscription basis in accordance with the terms and conditions set forth in Exhibit B ("**Hosted Services**"); (c) Software for use in Combined Products as defined in and in accordance with the terms and conditions set forth in Exhibit C; and (d) such other products and services as identified in or provided under an Order ((a) through (d) collectively, "**Yugabyte Product(s)**"). Each Order Form will be incorporated into, and is fully governed by, this Agreement upon execution of the Order Form by both parties. In the event of any conflict or inconsistency between this Agreement and an Order Form, this Agreement shall control.
    1.2. **Permitted Users**. Customer may permit its employees, agents, independent contractors, and consultants to use the Yugabyte Products on its behalf ("**Permitted Users**"), provided Customer remains responsible for the acts and omissions of each such Permitted User. Use of each Yugabyte Product by Customer in the aggregate must be within the restrictions set forth in the applicable Order Form (if any). If Customer is given passwords to access Yugabyte Products on Yugabyte's systems, Customer shall require that all Permitted Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. Customer shall be responsible for all actions taken using Customer's accounts and passwords.
    1.3. **Use by Affiliates**. Each of Customer's Affiliates (defined below) identified on an Order Form will be entitled to access and use the applicable Yugabyte Products in accordance with this Agreement and the applicable Order Form, provided that Customer shall remain responsible to Yugabyte for the actions and omissions of each such Affiliate (and each of such Affiliate's Permitted Users). The terms of this Agreement will govern, and will be incorporated by reference into, each such Order Form as if this Agreement were separately executed by the applicable Customer Affiliate, and the term "Customer" as used in this Agreement will be deemed as applying to such Customer Affiliate for the purposes of such Order Form. "**Affiliate**" means an entity that, directly or indirectly, controls, is controlled by, or is under common control with a party. As used herein, "control" means the power to direct the management or affairs of an entity or the beneficial ownership of fifty percent (50%) or more of the voting equity securities or other equivalent voting interests of an entity.
    1.4. **General Restrictions**. Except as expressly specified in this Agreement or Order Form, Customer shall not, and shall not allow any third party (including any Permitted User) to: (a) license, sell, resell, assign, transfer, sublicense, lease, lend, rent or otherwise distribute the Software to any third party; (b) make the functionality of the Software available to

multiple users through any means including, without limitation, by uploading the Software to a network or file-sharing service, or for application services provider, service bureau or time sharing purposes; (c) use any Yugabyte Product to help develop, or help provide to any third party, any product or service similar to or competitive with any Yugabyte Product; (d) reverse engineer, decompile (except as permitted by law, and then only upon Yugabyte's prior written consent), disassemble, or otherwise seek to obtain the source code of any Yugabyte Product; (e) copy, modify or create derivative works from any Yugabyte Product, any component thereof, or any documentation provided to Customer by Yugabyte with the Yugabyte Products, as revised by Yugabyte from time to time ("**Documentation**"); (f) remove or obscure any copyright or proprietary or other notice contained in any Yugabyte Product or Documentation; (g) propagate any virus, Trojan horse, or other malware or programming routine intended to damage any system or data; (h) access or use any Yugabyte Products in a manner intended to circumvent or exceed service account limitations or requirements; (i) use any Yugabyte Products in a manner that violates any applicable law, regulation, or legal requirement or obligation; (j) use any Yugabyte Products in violation of any third-party rights of privacy or intellectual property rights; (k) use or permit the use of any tools in order to probe, scan or attempt to penetrate or benchmark any Yugabyte Products; (l) post, upload, transmit or provide any Customer Data (defined below) that Yugabyte reasonably deems to be unlawful, harmful, abusive or otherwise objectionable; (m) circumvent any of Yugabyte's security measures or perform any security testing meant to uncover weaknesses in Yugabyte's systems or Yugabyte Technology (defined below); or (n) use the Yugabyte Products in any manner that exceeds the scope of use expressly permitted by this Agreement.

1.5. **Open Source Software**. The terms and conditions of this Agreement shall not apply to any "open source" or "free software" licenses ("**Open Source Software**") included in, embedded in, utilized by, or provided or distributed with the Yugabyte Products. Any such Open Source Software is subject to the terms of the applicable open source license agreement and copyright notice(s).

1.6. **Professional Services**. Yugabyte will perform implementation, customization, or other professional services for the Yugabyte Products ("**Professional Services**") as specified in an Order. All work product and deliverables from the Professional Services shall be deemed Yugabyte Products hereunder, unless otherwise expressly agreed by the parties in the applicable Order Form. Customer represents and warrants to Yugabyte that Customer owns or controls all rights in and to all Customer information and materials provided by or on behalf of Customer to Yugabyte pursuant to this Agreement, including without limitation all rights to exploit all such Customer information and materials worldwide in all media and languages in perpetuity without encumbrance or restriction. Customer grants to Yugabyte a non-exclusive, non-transferable, worldwide paid-up license to make, use, modify, reproduce, and prepare derivative works of Customer information and materials for the purpose of performing Professional Services.

2. **OWNERSHIP**

2.1. **Ownership**. Customer acknowledges that no intellectual property rights in the Yugabyte Products are assigned or transferred to Customer hereunder. Customer is obtaining only a limited right to access and use the Yugabyte Products set forth on the applicable Order Form. Customer agrees that Yugabyte or its suppliers own and retain all right, title and interest (including all patent, copyright, trade secret and other intellectual property rights) in and to (a) the Yugabyte Products, Documentation, and all related and underlying technology, documentation, and other data and information and (b) any intellectual property Yugabyte develops hereunder, and any derivatives thereof (individually and collectively, "**Yugabyte Technology**").

2.2. **Feedback**. In the event Customer provides Yugabyte with any suggestions, ideas, improvements, or other feedback with respect to any aspect of the Yugabyte Products

("**Feedback**"), Yugabyte shall own such Feedback and Feedback shall be deemed to be Yugabyte's Confidential Information.

2.3. **Reservation of IP Rights.** Except as expressly stated, nothing in this Agreement shall be construed to: (a) directly or indirectly grant to a receiving party any title or license to or ownership of a providing party's intellectual property rights in Professional Services, Yugabyte Products or materials furnished by such providing party; or (b) preclude such providing party from: (i) independently developing, marketing, acquiring, using, licensing, modifying or otherwise freely exploiting products or services that are similar to or related to the Professional Services, Yugabyte Products or materials provided under this Agreement; (ii) restricting the assignment of persons performing Professional Services; or (iii) using and employing their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as that party complies with confidentiality obligations in this Agreement.

3. **SUBSCRIPTION TERM, FEES AND PAYMENT**

3.1. **Subscription Term and Renewals**. Unless otherwise terminated as set forth below, each Order Form will have a term as set forth therein (the **"Initial Term"**). Thereafter, each Order Form will automatically renew for successive renewal terms of equal length to the Initial Term (each, a **"Renewal Term,"** and together with the Initial Term, the **"Subscription Term"**) at the same annual rate stated in the Order Form, plus 5%, unless either party provides the other party with written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current Subscription Term. If no term is stated on an Order Form, the Subscription Term for such Order Form is one (1) year.

3.2. **Fees and Payment**. All fees are as set forth in the applicable Order Form and shall be paid by Customer within thirty (30) days of Customer's receipt of Yugabyte's invoice, unless otherwise specified in the applicable Order Form. Except as otherwise set forth in the applicable Order Form, all fees are due and payable in advance at the start of the applicable Subscription Term (and each renewal term). Except as expressly set forth in Section 5 or 7, all fees are non-cancelable and non-refundable. Customer is required to pay any sales, use, value-added withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on the income of Yugabyte. If Customer is required to pay withholding taxes, then Customer shall gross-up the payment such that the payment to Yugabyte agrees with the stated invoice value. Any late payments shall be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less (plus the costs of collection).

3.3. **Suspension of Service**. If Customer's account is ten (10) days or more overdue following notice thereof or if Customer is not in compliance with the license requirements or restrictions set forth in this Agreement, in addition to any of its other rights or remedies, Yugabyte reserves the right to suspend Customer's access to the applicable Yugabyte Product without liability to Customer until such amounts are paid in full or the breach is cured.

4. **TERM AND TERMINATION**

4.1. **Term**. This Agreement is effective as of the Effective Date and will continue in effect until terminated as set forth below. The term of each Order Form shall commence on the effective date of such Order Form and will continue in effect for the term stated therein unless earlier terminated as set forth below.

4.2. **Termination**. Either party may terminate this Agreement with at least five (5) days' prior written notice if there are no Order Forms then in effect. In addition, either party may terminate this Agreement or any Order Form if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay fees) within thirty (30) days after written notice (such notice must contain sufficient detail as to the nature of the breach and state the intent to terminate and email notice is sufficient in the case of non-

payment); (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter). For clarity, termination of this Agreement will automatically terminate all Order Forms and Statements of Work.

4.3. **Effect of Termination**. Upon the expiration or termination of this Agreement or any Order Form, (a) Customer shall immediately cease all use of and access to Yugabyte Products (including all related Yugabyte Technology) set forth in the applicable Order Form; (b) Customer shall pay all fees and expenses for all applicable Order Forms and Statements of Work as of the date of termination; and (c) upon termination of this Agreement, each party will return to the other party (or destroy) such other party's Confidential Information. Except as otherwise set forth herein, termination of this Agreement is not an exclusive remedy and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

4.4. **Survival**. Sections 1.4, 2, 3.2, 4, 5.2, 6, 7, 8, and 9 hereof, Sections 2, 3, 4 and 5 of Exhibit A, Sections 2, 3, 6 and 7 of Exhibit B, and 2.2, 5.1, 6, 7.3, 7.4, 8 and 9 of Exhibit C, shall survive the expiration or termination of this Agreement.

5. **LIMITED WARRANTY; DISCLAIMER**

5.1. **Limited Warranty**. Yugabyte warrants that it will provide the Yugabyte Products in substantial conformity with the applicable Documentation and the descriptions in the Order Form for the period set forth in the Order Form. Yugabyte's sole liability (and Customer's sole and exclusive remedy) for any breach of this warranty shall be, in Yugabyte's sole discretion and at no charge to Customer, to use commercially reasonable efforts to provide Customer with an error correction or work-around that corrects the reported non-conformity, or if Yugabyte determines such remedies to be impracticable, to allow Customer to terminate the Subscription Term and receive as its sole and exclusive remedy and Yugabyte's entire liability, a refund of any fees Customer has pre-paid for use of Yugabyte Products or related Professional Services it has not received as of the date of the warranty claim. The limited warranty set forth in this Section 5.1 shall not apply: (a) unless Customer makes a claim within the warranty period, (b) if the error was caused by improper installation, misuse, unauthorized modifications or third-party hardware, software, or services, or (c) to Yugabyte Products provided on a no-charge or evaluation basis.

5.2. **Warranty Disclaimer**. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS AGREEMENT, YUGABYTE PRODUCTS AND ALL SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. YUGABYTE AND ITS SUPPLIERS EACH EXPRESSLY DISCLAIM ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES AND AGREES THAT YUGABYTE IS NOT RESPONSIBLE FOR (A) VIRUSES, WORMS, TROJAN HORSES, OR OTHER UNDESIRABLE DATA OR SOFTWARE; OR (B) UNAUTHORIZED USERS (E.G., HACKERS) WHO OBTAIN ACCESS TO OR DAMAGE CUSTOMER'S CONTENT OR OTHER DATA, WEBSITES, COMPUTERS, OR NETWORKS.

6. **LIMITATION OF LIABILITY**
IN NO EVENT SHALL YUGABYTE BE LIABLE, UNDER ANY LEGAL OR EQUITABLE THEORY OF LAW, WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING LOST PROFITS, BUSINESS, CONTRACTS, REVENUE, GOODWILL, PRODUCTION, AND ANTICIPATED SAVINGS OR DATA, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. YUGABYTE'S AGGREGATE LIABILITY SHALL IN NO EVENT EXCEED THE FEES PAID BY CUSTOMER TO YUGABYTE DURING THE TWELVE (12) MONTH PERIOD PRIOR TO WHEN THE CLAIM AROSE.

7. **INDEMNIFICATION**

    7.1. **Indemnification by Yugabyte**. Yugabyte shall defend Customer from and against any claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising from the infringement of a U.S. patent, copyright, trademark, or other intellectual property right asserted against Customer by a third party based upon Customer's use of Yugabyte Products in accordance with the terms of this Agreement during the Subscription Period or renewal period, provided that Yugabyte shall have received from Customer: (a) prompt written notice of such claim (but in any event notice in sufficient time for Yugabyte to respond without prejudice); (b) the exclusive right to control and direct the investigation, defense, or settlement (if applicable) of such claim (as long as such settlement releases Customer from any and all liability); (c) all reasonable necessary cooperation of Customer; (d) is not in material breach of this Agreement; and (e) is current in payment of all applicable fees prior to the claim. If Customer's use of any Yugabyte Product is, or in Yugabyte's opinion is likely to be, enjoined due to the type of infringement specified above, or if required by settlement, Yugabyte may, in its sole and reasonable discretion: (x) substitute substantially functionally similar products or services; (y) procure for Customer the right to continue using Yugabyte Products; or if (x) and (y) are commercially impracticable, (z) terminate this Agreement and refund to Customer any unused, prepaid fees paid by Customer for the terminated period.

    7.2. **Indemnity Exclusions.** The foregoing indemnification obligation of Yugabyte shall not apply to the extent that the alleged infringement arises from: (1) any modification of the Yugabyte Products other than by or on behalf of Yugabyte; (2) access to or use of any Yugabyte Product in combination with any hardware, system, software, network, or other products, materials or services not provided by or on behalf of Yugabyte (3) use of Yugabyte Products in breach of this Agreement; (4) use for a purpose or in a manner for which Yugabyte Products were not designed or use after Yugabyte notifies Customer to cease such use due to a possible or pending Claim; (5) any modifications to Yugabyte Products made by Yugabyte pursuant to instructions, designs, specifications, or any other information or materials provided to Yugabyte by or on behalf of Customer; (6) use of any version of Software when an upgrade or a newer iteration of Software made available by Yugabyte could have avoided the infringement; (7) any data or information which Customer or a third party utilizes in connection with Software; (8) Customer Data or other data or information utilized in connection with the Products; or (9) Open Source Software. THIS SECTION 7.2 SETS FORTH YUGABYTE'S SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

    7.3. **Indemnification by Customer**. Customer shall indemnify, defend, and hold harmless Yugabyte from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim arising from or relating to (a) Customer's violation of any laws, regulations, or rights relating to Customer Data (including, without limitation, privacy laws, regulations, or rights), or Customer's breach of Exhibit A, (b) any action taken (or not taken) by Customer based upon use of a Yugabyte Product, (c) any dispute between Customer and any other user of the Yugabyte Products, (d) any Claim that the information or materials provided by Customer or its agents for use by Yugabyte infringe any intellectual property rights; or (e) Customer's breach of this Agreement, gross negligence or willful misconduct. This indemnification obligation is subject to Customer receiving: (x) prompt written notice of such claim (but in any event notice in sufficient time for Customer to respond without prejudice); (y) the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (z) all reasonable necessary cooperation of Yugabyte at Customer's expense.

8. **CONFIDENTIAL INFORMATION**
    8.1. **Definition.** "**Confidential Information**" means information disclosed by one party to the other that is marked as confidential or proprietary or that ought reasonably to be understood as confidential or proprietary. All Yugabyte Technology, performance information relating to the Yugabyte Products, and the terms and conditions of this Agreement (including the fees and pricing information) shall be deemed Confidential Information of Yugabyte without any marking or further designation. Confidential Information does not include Customer Data (as defined in Exhibit A), nor does it include information that the recipient already lawfully knew, that becomes public through no fault of the recipient, that was independently developed by the recipient without any reference to or use of Confidential Information, or that was rightfully obtained by the recipient from a third party.

    8.2. **Obligations.** The recipient agrees not to disclose Confidential Information except to its Affiliates, employees, contractors, and agents who need to know it and have agreed in writing to keep it confidential for a period commencing upon the disclosure date until three years later. Only those parties may use the Confidential Information, and only to exercise the recipient's rights and fulfill its obligations under this Agreement, while using at least a reasonable degree of care to protect it. The recipient may also disclose Confidential Information to the extent required by law after providing reasonable notice to the discloser and cooperating to obtain confidential treatment. Unauthorized disclosure of Confidential Information may cause harm not compensable by damages, and the disclosing party may seek injunctive or equitable relief in a court of competent jurisdiction, without posting a bond, to protect its Confidential Information.

9. **GENERAL TERMS**
    9.1. **Publicity.** Yugabyte may identify Customer as a customer of the Yugabyte Products in customer lists and marketing materials. With Customer's advance written consent and subject to any usage guidelines provided by Customer, Customer agrees to participate in case studies and press releases.

    9.2. **Assignment.** This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement except upon the advance written consent of the other party, except that either party may assign this Agreement without such consent in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all of such party's assets or voting securities. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section 9.1 will be null and void.

    9.3. **Force Majeure.** Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay, epidemic, pandemic, government act, or failure is due to unforeseen events which occur after the signing of this Agreement and which are beyond the reasonable control of such party, such as a pandemics, strikes, embargoes, riots, export control regulations, interventions of any government authority, unavailability of raw materials, blockades, wars, acts of terrorism, riots, fires, floods, earthquakes or other natural disasters, or failure or diminishment of power or telecommunications or data networks or services.

    9.4. **Subcontractors.** Yugabyte may use the services of subcontractors for performance of services under this Agreement, provided that Yugabyte remains responsible for such subcontractors' compliance with the terms of this Agreement.

    9.5. **Independent Contractors.** The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

9.6. **Severability**. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.

9.7. **Governing Law; Jurisdiction and Venue**. This Agreement shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. Except for claims for injunctive or equitable relief or claims regarding intellectual property rights (which may be brought in any competent court in Santa Clara, California), any dispute arising under this Agreement shall be finally settled in binding arbitration. The Judicial Arbitration and Mediation Service, Inc. ("JAMS") will administer the arbitration in accordance with its Comprehensive Arbitration Rules and Procedures (though to the extent JAMS' Expedited Arbitration Procedures are available, they will apply), and the arbitration will be held in Santa Clara, California. Subject to the foregoing provisions of this Section 9.7, the jurisdiction and venue for actions related to the subject matter hereof shall be the state and United States federal courts located in Santa Clara, California and both parties hereby submit to the personal jurisdiction of such courts.

9.8. **Notice**. Any notice or communication required or permitted under this Agreement shall be in writing to the parties at the addresses set forth as first listed above or at such other address as may be given in writing by either party to the other in accordance with this Section and shall be deemed to have been received by the addressee (a) if given by hand, immediately upon receipt; (b) if given by overnight courier service, the first business day following dispatch or (c) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail. In addition, any legal notices to Yugabyte must be delivered to the following email address: legal@yugabyte.com but, notwithstanding earlier receipt via email, legal notices will be deemed received when the physical notice is received as set forth in preceding sentence).

9.9. **Amendments**. Subject to the remainder of this Section, no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. Yugabyte may change this Agreement from time to time by posting a modified version on its website, such as at https://www.yugabyte.com/eula/. If, in Yugabyte's sole discretion, the changes are material, Yugabyte will provide Customer with reasonable notice prior to the effective date of the changes, either by emailing the email address associated with Customer's account or by notifying Customer through the Yugabyte Products. A materially-modified Agreement will become effective on the date set forth in the notice, and all other changes will become effective upon posting thereof. By continuing to access or use the Yugabyte Products after the effective date of changes to this Agreement, Customer agrees to be bound by the modified version of the Agreement. If Yugabyte fails to provide Customer with notice of material changes to this Agreement in accordance with this Section, then Customer's subscription to and use of the Yugabyte Products will continue to be governed by the terms and conditions of the Agreement as they were immediately prior to such modifications, until Customer's next renewal date, after which the modified Agreement will govern.

9.10. **Waivers**. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. Purchase orders (and similar documents) issued by Customer are for administrative purposes only (e.g., setting forth products and services ordered and associated fees) and any additional or different terms or conditions contained in any such order shall not apply (even if the order is accepted, or performed on by Yugabyte).

9.11. **No Third Party Rights**. There are no third party beneficiaries to this Agreement.

9.12. **Export Compliance**. Each party shall comply with all applicable export and re-export control and trade and economic sanctions laws, including the Export Administration Regulations maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), and the International Traffic in Arms Regulations maintained by the U.S. State Department. Neither party, nor any of its subsidiaries or any person acting on its behalf or owning 50% or more of its equity securities or other equivalent voting interests, is (a) a person on the List of Specially Designated Nationals and Blocked Persons or any other list of sanctioned persons administered by OFAC or any other governmental entity, or (b) a national or resident of, or a segment of the government of, any country or territory for which the United States has embargoed goods or imposed trade sanctions.

9.13. **Entire Agreement**. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications, relating to the subject matter of this Agreement. This Agreement may be executed electronically and in counterparts (such as via DocuSign), which counterparts taken together shall form one legal instrument. Any pre-printed terms in a Customer purchase order or similar document are null and void.

EXHIBIT A
Installed Software License Terms

This Exhibit A sets forth additional terms governing Customer's purchase of a license to Installed Software.

1. **GRANT OF LICENSE**
   Subject to Customer's compliance with the terms and conditions of this Agreement, Yugabyte grants Customer a limited, non-exclusive, non-sublicensable and non-transferable license for Customer's Permitted Users to install and use the executable form of the Software made available by Yugabyte as set forth in the Order Form and any Documentation provided by Yugabyte for such Software. Customer may make a single copy of the Software for backup purposes, provided that Customer reproduces on it all copyright and other proprietary notices that are on the original copy of the Software. Yugabyte reserves all rights, title, and interest in and to the Software not expressly granted to Customer in this Agreement.

2. **RESTRICTIONS**
   2.1. Should Customer exceed the Software's licensed capacity (based on the applicable Unit of Measure), Customer shall immediately either (1) purchase additional quantities of Software at the same rates as set forth in the Order Form during the Subscription Term ("Add-On Orders") by submitting a valid purchase order to Yugabyte for the number of Add-On licenses [any Add-On Orders purchased shall be coterminous with the initial Subscription Term] or (2) cease such excess usage.

   2.2. If Customer upgrades or exchanges the Software from a previous validly licensed version, Customer must cease using all prior versions of the Software and certify cessation of use to Yugabyte. Customer is responsible for obtaining any software, hardware, or other technology required to operate the Software and complying with any corresponding terms and conditions.

3. **OWNERSHIP**
   The Software is licensed, not sold and Yugabyte owns all right, title and interest in and to the Software, including all intellectual property rights therein. The Software is protected by United States copyright law and international treaties. Customer will not delete or in any manner alter the copyright, trademark, and other proprietary rights notices or markings appearing on the Software as delivered to Customer.

4. **SUPPORT AND MAINTENANCE**
   Yugabyte will provide support and maintenance services for the Installed Software as set forth at https://www.yugabyte.com/support-policy/.

5. **DELIVERY**
   Software shall be provided by electronic download and deemed to be delivered and accepted, meaning that the Software operates in substantial conformity to the Documentation, upon transmission of a notice of availability for download. Software may be downloaded from Replicated.com or direct S3 links. For Kubernetes, Quay.io is the container image registry.

6. **DATA**
   Yugabyte shall not be responsible for unauthorized disclosure of Customer's data stored within Software arising from a data security breach. Customer is solely responsible for all obligations to comply with laws applicable to Customer's Software use, including without limitation any personal data processing. Yugabyte may collect, use, store and transmit technical and related information about Customer's Software use, including server internet protocol addresses, hardware identification, operating system, application software, peripheral hardware, and Software usage statistics. Customer is responsible for obtaining all consents required to enable Yugabyte to exercise its confidentiality rights, in compliance with applicable law.

7. **AUDIT**
   For the period set forth in the Order Form, any renewals, and for three years after, Customer shall maintain accurate records regarding its compliance with this Agreement. Upon reasonable notice and

not more than once per year, Yugabyte may audit Customer's Software use to determine such compliance and payment of fees. Customer shall promptly pay additional fees identified by the audit and reimburse Yugabyte for all audit costs if the audit discloses underpayment by more than 5% in the audited period, or that Customer breached any Agreement term. If required by Yugabyte and by the method Yugabyte prescribes, Customer shall provide information to Yugabyte in connection with its use of the Software. Customer agrees that Yugabyte may use such information in connection with providing the Software and ensuring compliance with this Agreement.

8. **WARRANTY**

   The warranty period for the Software purchased in any Order From is ninety (90) days starting the first notice of availability of the Software for download.

9. **SOFTWARE INCLUSIONS/RESTRICTIONS FOR YUGABYTEDB ANYWHERE**

   9.1. **Inclusions:** YugabyteDB, YugabyteDB Anywhere UI, Support Services, One (1) Non-Production Environment CPU Core for each Production Environment CPU Core.

   9.2. **Required Software and Hardware** (must be licensed or purchased separately). In a Production Environment:

       9.2.1. Minimum of 3 Nodes each with: (1) CPU: Minimum of 16 vCPUs or 16 logical CPU Cores; (2) Memory: Minimum of 1GB RAM per vCPU or logical CPU core; (3) Disk: Local, Solid State Drive (SSD) storage; (4) Replication Factor (RF) of 3**;** (5) OS: RedHat (RHEL) 7.x or CentOS 7.x

   9.3. **DEFINITIONS**

       9.3.1. "**CPU Core**" means a logical or virtual unit of a CPU that can execute computer programs. Yugabyte calculates CPU cores based on the environment in which the Software operates. In a physical (Hyperthread) or virtual (i.e., vCPU) environment Yugabyte recognizes logical cores as a unit of compute for licensing.

       9.3.2. "**Hyperthread**" is a technology by which a single physical core is split across two logical cores. In a virtualized or hypervisor (VM) computing environment, a CPU Core may be presented as one or more vCPUs. In a public cloud computing environment, a CPU Core is Hyperthreaded and may be presented as one or more vCPUs ("vCPU" means a unit of virtual processing power configured to a VM). This may be named differently by the public cloud vendors, e.g., Amazon Web Services defines CPU Core as "vCPU", Microsoft Azure defines CPU Core as "Core" or "vCPU", Google Cloud Platform defines CPU Core as "Virtual CPU", and Heroku defines CPU Core as "Compute". Yugabyte recognizes vCPUs as a unit of compute for licensing. In container environments, including Kubernetes, a CPU core may be presented as one or more vCPUs assigned as CPU limit on the container running mater and tablet container. 1 core is 1024 millicore.

       9.3.3. "**Non-Production Environment**" means a test environment, development environment, or other environment not used by end users for business or other operations. All Software used in the Non-Production Environment must be licensed under the appropriate EULA.

       9.3.4. "**Pod**" means one or more containers representing a single deployable unit of workload. It may consume one or more CPU cores. In YugabyteDB, a single Universe consists of multiple pods and are always deployed as part of Kubernetes Statefulset. A Pod's contents are always co-located, co-scheduled, and run in a shared context. Note: consumption is based on the maximum concurrent use during the Subscription Term.]

       9.3.5. "**Production Environment**" means an environment used for business or other operations. All Software used in the Production Environment must be licensed under the appropriate End User License Agreement.

9.3.6. "**Replication Factor ("RF")**" is equivalent to the number of nodes where data (rows and partitions) are replicated. Data is replicated to multiple (RF=N) nodes.

9.3.7. "**Virtual Machine ("VM")**" means a software container that can run its own operating system and execute applications, just as a physical computer does.

EXHIBIT B
Hosted Services Subscription Terms

This Exhibit B sets forth additional terms governing Customer's access to and use of the Hosted Services.

1. **ACCESS TO SERVICES**
Customer may access and use the Hosted Services offered at https://cloud.yugabyte.com on a non-exclusive, non-sublicensable and non-transferable basis, only in accordance with the terms and conditions of this Agreement, the applicable Order Form, and any Documentation provided by Yugabyte for such Hosted Services set forth at https://docs.yugabyte.com/latest/yugabyte-cloud/.

2. **RESTRICTIONS**
Except as expressly specified in this Agreement, Customer shall not, and shall not allow any third party (including any Permitted User) to:; (a) use the Hosted Services for high risk activities such as the operation of nuclear facilities, air traffic control, or life support systems, where the use or failure of YugabyteDB Managed could lead to death, personal injury, or environmental damage; (b) store, process, or transmit (i) protected health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, supplemented or otherwise, (ii) payment cardholder information or other information subject to Payment Card Industry (PCI) Data Security Standard requirements as amended, supplemented or otherwise, or (iii) any other information for which storage, processing or transmission would be prohibited under applicable law or would require the parties to enter into any other agreement under applicable law; (c) store, process, or transmit any Customer Data that is controlled for export under export control laws; (d) circumvent any Hosted Services security measures or perform any security testing meant to uncover weaknesses in Yugabyte Products; (e) use the Hosted Services on behalf of or for the benefit of any entity or person who is prohibited from using the Hosted Services by applicable laws or regulations; or (f) use the Hosted Services in violation of the Acceptable Use Policy. "Acceptable Use Policy" means (1) the policy available at https://www.yugabyte.com/yugabytedb-managed-acceptable-use-policy/, (2) if Customer chooses Amazon Web Services (AWS) as the underlying database, the AWS terms available at https://aws.amazon.com/aup, (3) if Customer chooses Azure as the underlying database, the Azure terms available at https://azure.microsoft.com/en-us/support/legal/subscription-agreement/, or (4) if Customer chooses Google Cloud Platform (GCP) as the underlying database, the GCP terms available at https://cloud.google.com/terms/aup (and for (1)-(4), any successor or related designated sites, as updated from time to time).

3. **CUSTOMER DATA**
   3.1. **General**. "**Customer Data**" means information, data, and other content, in any form or medium, that is downloaded, or otherwise received, directly or indirectly (including via a third-party provider), from Customer (including from a Permitted User on Customer's behalf) by or through the Hosted Services or provided by Customer to Yugabyte to input into the Hosted Services. Customer represents and warrants to Yugabyte that Customer's use of the Hosted Services and all Customer Data is and will be always compliant with Customer's privacy policies and all applicable local, state, federal and international laws, regulations, and conventions, including, without limitation, those related to data privacy, international communications, and the exportation of technical or personal data (including Personal Data (as defined in the DPA)). Customer further represents and warrants that neither it nor any Permitted User will upload to the Hosted Services any Customer Data that (a) infringes, misappropriates or otherwise violates the intellectual property rights of any third party or any rights of publicity or privacy; (b) materially violates any applicable laws, rules, regulations or judicial orders (including, but not limited to, applicable policies, laws, rules and orders related to spamming, privacy, consumer protection, and encryption); (c) is defamatory, trade libelous, or unlawfully threatening or unlawfully harassing; (d) is obscene, pornographic or indecent; or (e) contains any viruses, trojan horses, worms or other harmful or destructive code or mechanisms that are

intended to damage, interfere with or expropriate any system, data or personal information. Customer is solely responsible for the accuracy, content, and legality of all Customer Data. Customer represents and warrants to Yugabyte that Customer has sufficient rights in the Customer Data to grant the rights granted to Yugabyte in Section 3.2 below and that the Customer Data does not infringe or otherwise violate the rights of any third party.

3.2. **Rights in Customer Data**. As between the parties, Customer shall retain all right, title and interest (including any and all intellectual property rights) in and to the Customer Data. Customer hereby grants to Yugabyte a non-exclusive, worldwide, irrevocable, transferable, sublicensable (through multiple tiers), fully paid-up, royalty-free right and license to use, copy store, transmit, modify, and display the Customer Data to: (a) provide the Hosted Services to Customer; and (b) perform such other actions as authorized or instructed by Customer in writing (email to suffice).

3.3. **Customer Data**. At any time before or within thirty (30) days after termination or expiration of this Agreement, Customer may download Customer Data from the Hosted Services. Customer acknowledges that if Customer or a Permitted User deletes Customer Data from the Hosted Services, such Customer Data may still reside in Yugabyte's systems, applications, databases, and servers (including, without limitation, as backups and/or archives). Customer acknowledges that the foregoing actions during any Subscription Term may have an adverse impact on Customer's use of the Hosted Services (and Yugabyte is not liable with respect thereto).

3.4. **Customer Obligations.** Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use; (b) all other information, instructions and materials provided by or on behalf of Customer or any Permitted User in connection with its access to or use of the Hosted Service; (c) the computers, software, databases, electronic systems (including database management systems), networks, internet access, other vendors (e.g., Amazon Web Services) and other information technology infrastructure of Customer or any of its designees or Permitted Users ("**Customer Systems**"); (d) all access to and use of the Hosted Service or other Yugabyte Technology directly or indirectly by or through the Customer Systems or its or its Permitted Users' access credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use; (e) complying with all applicable laws regarding the use and processing of Customer Data; and (f) taking all steps to maintain appropriate security, protection and backup of Customer Data.

4. **DE-IDENTIFIED DATA**
Yugabyte may create and use de-identified data related to Customer's use of the Hosted Services to improve Yugabyte's products and services, to develop new products and services, and for its other business purposes (and such de-identified data will be owned by Yugabyte).

5. **THIRD PARTY APPLICATION SERVICE PROVIDERS**
Customer may be able to access and use certain optional third-party services or products (e.g., a third-party service that integrates with Yugabyte via opt-in, or uses Yugabyte's APIs) through or with its use of the Hosted Services ("**Third-Party Services**"). Customer is under no obligation to use any Third-Party Services. IF CUSTOMER USES ANY THIRD-PARTY SERVICES, YUGABYTE WILL NOT BE RESPONSIBLE FOR ANY ACT OR OMISSION OF ANY PROVIDER OF SUCH THIRD-PARTY SERVICES. YUGABYTE DOES NOT WARRANT OR PROVIDE DIRECT SUPPORT FOR ANY THIRD-PARTY SERVICES. CUSTOMER ACKNOWLEDGES AND AGREES THAT YUGABYTE WILL HAVE NO RESPONSIBILITY OR LIABILITY FOR THE ACTS OR OMISSIONS OF ANY PERMITTED USERS IN CONNECTION WITH ANY THIRD-PARTY SERVICES.

6. **SECURITY**
Yugabyte shall use reasonable physical, technical, and administrative procedures designed to protect, safeguard, and help prevent loss, misuse, and unauthorized access, disclosure, alteration or destruction of Customer Data, and Yugabyte will choose these safeguards based on the sensitivity of

the information that is collected, processed, and stored and the current state of applicable technology.

7. **DATA PROCESSING**

To the extent that Yugabyte processes any data which is defined as "personal data," "personal information," or "sensitive data" in the General Data Protection Regulation (Regulation (EU) 2016/679) ("**GDPR**") or the California Consumer Privacy Act of 2018, as amended ("**CCPA**") (collectively, "**Personal Data**"), Yugabyte shall do so in compliance with its privacy policy at https://www.yugabyte.com/privacy-policy/, which is incorporated herein by reference. If the Personal Data that Yugabyte processes relates to individuals who are data subjects entitled to the rights granted under GDPR, Customer agrees that Yugabyte does so as a data processor as defined in GDPR. If the Personal Data that Yugabyte processes relates to individuals who are California residents, and Customer is subject to CCPA, Customer agrees that Yugabyte does so as a service provider as defined in CCPA. The Hosted Service is a shared responsibility between the third party cloud service provider selected by Customer from available options ("**Cloud Provider**"), Yugabyte, and Customer. Under the shared responsibility model, Yugabyte implements technical and organizational security measures available at https://www.yugabyte.com/yugabyte-cloud-data-processing-addendum/. Customer remains responsible for the security, protection and backup of Customer Data, and its use and configuration of the Hosted Services. It is Customer's responsibility to evaluate YugabyteDB Managed security and determine whether their data can be stored in YugabyteDB Managed. The parties agree that the DPA available at: https://www.yugabyte.com/yugabyte-cloud-data-processing-addendum/ forms part of this Agreement, and in the event of any conflict between Yugabyte's privacy policy and a DPA, the DPA shall govern.

8. **SUPPORT AND MAINTENANCE**

Yugabyte will provide support and maintenance services for the Hosted Services as set forth at https://www.yugabyte.com/yugabyte-cloud-support-services-terms-and-conditions/.

9. **ACCEPTABLE USE POLICY**

All Customer use of Hosted Services shall be in compliance with the YugabyteDB Managed Acceptable Use Policy set forth at: https://www.yugabyte.com/yugabytedb-managed-acceptable-use-policy/.

10. **SERVICE LEVEL AGREEMENT**

Yugabyte will make commercially reasonable efforts to provide the Hosted Services in accordance with the availability, service credit, and other terms set forth at https://www.yugabyte.com/yugabyte-cloud-service-level-agreement/.

11. **CHANGES**

Yugabyte may change or discontinue the Hosted Services or components thereof at its sole discretion. Yugabyte will provide Customer prior notice if of any modifications that have a material adverse effect on the functionality of the Hosted Services, except that such notice will not be required for violations or suspected violations of this Agreement or applicable laws, or security or intellectual property issues.