



MASTER SUBSCRIPTION AND SERVICES AGREEMENT

Last Updated: May 2024

This **MASTER SUBSCRIPTION AND SERVICES AGREEMENT** ("**Agreement**") sets forth the terms and conditions governing the purchase, use or trial of products, solutions and services (as further defined below, the "**Solutions**") sold by Nasuni Corporation ("Nasuni" or "we") pursuant to Order(s) we accept from you and your Affiliates ("Customer" or "you") (or from a reseller or online marketplace, issued on your behalf). The terms of such Order(s) shall take precedence over any inconsistent terms in the Agreement. This Agreement includes the **General Terms** attached hereto as **Exhibit A**, the **Additional Terms for Professional Services** attached hereto as **Exhibit B**, all Orders, and any and all other referenced exhibits, addenda, policies and attachments. If you have entered into a separate written agreement with Nasuni regarding the use of the Solutions, then that agreement, and not the terms hereof, will govern your Order(s) and your use of the Solutions.

If Customer has ordered the Solutions through a Nasuni reseller or via an online marketplace, the applicable payment terms between Customer and such reseller or online marketplace shall apply to Order(s) hereunder, but all other terms of this Agreement, as between Customer and Nasuni, shall govern Customer's use of the Solutions. The reseller/online marketplace is responsible for the accuracy of any such Order. Resellers/online marketplaces are not authorized to make any promises or commitments on our behalf, and Nasuni is not bound by any obligations to you other than what we specify in this Agreement.

If Customer is using a trial subscription of one or more Solutions, the Solutions will be accessible until the end of the trial period specified on Customer's Order (a "Trial Period"). During a Trial Period, the Solutions are provided "AS-IS" (without warranty) and for your internal evaluation purposes only and, except as may otherwise be agreed in an Order, may not be used as a production environment or with production data. Nasuni may delete the trial environment in its entirety after the Trial Period. Nasuni will not be liable for any damages related to your use of the Solutions during a Trial Period.

You represent that the individual who agrees to these terms on your behalf has the authority to bind you to the Order and this Agreement and that their agreement to these terms will be treated as your agreement. **BY ACCESSING, DOWNLOADING OR USING THE SOLUTIONS, YOU AGREE THAT THE TERMS OF THIS AGREEMENT GOVERN YOUR USE OF THE SOLUTIONS, AND, UNLESS OTHERWISE STATED IN THIS AGREEMENT, NO VARYING TERMS AND CONDITIONS WILL APPLY. IF YOU DO NOT AGREE WITH THESE TERMS, YOU MAY NOT ACCESS, DOWNLOAD OR USE THE SOLUTIONS.**

EXHIBIT A – GENERAL TERMS

1. DEFINITIONS

“Access Controls” means any and all keys, certificates, passwords, authorization or access codes, user IDs or other credentials or login information that is automatically generated, or that you may generate, in connection with your use of the Solutions.

“Account Portal” means the web-based portal through which you may access and download the Solutions, serial numbers, view usage information, and through which you may update your account profile information.

“Affiliate” means an entity that owns or controls, is owned or controlled by, or is under common ownership or control with a party, where “control” means the power to direct the management or affairs of an entity and “ownership” means the beneficial ownership of fifty percent (50%) or more of the voting securities or other equivalent voting interests of an entity. “Affiliate” shall not include any entity which is prohibited by applicable law from using the Solutions.

“Authorized Users” means your employees, contractors and agents that you authorize to use the Solutions on your behalf.

“Confidential Information” means any non-public information that is marked or identified as confidential (or under the circumstances of the disclosure or the nature of the information, it would reasonably be understood to be confidential or proprietary) at the time of disclosure. All Customer Data is Confidential Information of Customer.

“Customer Data” means the programs, data, information and content (including without limitation any Protected Information) that you store, or access, in your third-party cloud or other storage environment in connection with your use of the Solutions.

“Data Controller” means the entity that determines the purposes and means of Processing Protected Information.

“Data Processor” means an entity that Processes Protected Information on behalf of a Data Controller.

“Data Storage Services” means any legacy data storage services that may be purchased from Nasuni as described in Section 3.5.

“Documentation” means any written user and technical documentation provided by Nasuni generally to its subscribers for use with the Solutions.

“Equipment” means any hardware appliance(s) that Customer may purchase separately from Nasuni or an authorized reseller.

“Feedback” means feedback or suggestions about the features, functions, or operation of the Solutions.

“Fees” means Subscription Fees, fees for Professional Services and any other fees listed on the Order.

“Nasuni Connector” means the Nasuni Analytics Connector, including any updates or upgrades thereto, and any related Documentation. The Nasuni Connector enables you to export a temporary second copy of your file data, in native object format, to your separate cloud storage account (provided by your cloud storage provider), so you can use that copied data with third party (not Nasuni) data tools, such as analytics software, AI and machine learning systems and tools and other data tools.

“Order” means the purchase order or other ordering document that Nasuni accepts from you or a reseller or online marketplace. If you are purchasing via a reseller or online marketplace, the Order will be between Nasuni and the reseller or online marketplace, and you will have a separate purchasing document that you enter into with the reseller or online marketplace that will apply to your purchase from that entity.

“Process” means (including any grammatically inflected forms thereof) any operation or set of operations which is performed on data or on sets of data, whether or not by automated means, including, without limitation: collection, recording, organization, structuring, storage, adaptation or alteration, access, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Professional Services” means the consulting, implementation, installation, data migration, training or other professional services provided by Nasuni (or its subcontractors) pursuant to a Statement of Work or Order, as set forth in Section 2.3 and **Exhibit B**.

“Protected Information” means information relating to any identified or identifiable individual, household, or device, in each case that is subject to specific applicable regulations or laws that impose increased protections and/or obligations with respect to handling that type of information, including any such information of either party’s employees, contractors or agents.

“Renewal Subscription Term” means a renewal of a Subscription Term for Solutions.

“Services” means (collectively) Support, Professional Services and any other services provided by Nasuni hereunder.

“Solutions” means (collectively) the Software and the Services provided by Nasuni hereunder.

“Software” means the Nasuni software (including Updates) that is listed on an Order.

“Subscription Fees” means the subscription fees listed in an Order for the use of the Solutions.

“Subscription Term” means the subscription term listed in an Order, including each subsequent Renewal Subscription Term thereof.

“Support” means the support services as described in Section 4.

“Support Policy” means the customer support policy found at <https://www.nasuni.com/legal/customer-support-policy/> or a successor location that we point to, as may be updated from time to time.

“Support Terms” means the support terms provided in Section 4.

“Updates” means bug fixes, enhancements and other updates to the Solutions which Nasuni makes generally commercially available without additional charge during your Subscription Term.

2. SOLUTION SUBSCRIPTIONS AND PROFESSIONAL SERVICES

2.1 Solution Subscriptions. Subject to the terms and conditions of this Agreement, Nasuni hereby grants you a non-exclusive, non-transferable (except as expressly permitted herein) license to access and use (and for downloadable portions, download) the Solutions for the capacity limits, and any other limitations, described in the Order and any accompanying Documentation, for your own internal business purposes during the Subscription Term. Nasuni provides Updates and technical support for the Software during the Subscription Term (at no additional charge) according to the Support Terms. Nasuni reserves all rights not specifically granted to you in this Agreement.

2.2 Renewals. After the initial Subscription Term, unless otherwise specified on the Order, your Solutions subscription will automatically renew for subsequent annual Renewal Subscription Terms unless either party gives the other party written notice of nonrenewal at least 30 days before the last day of your then-current Subscription Term. You agree that, if you do not give written notice of non-renewal prior to the date that is 30 days before the last day of your then-current Subscription Term, you will pay the Subscription Fees applicable to the Renewal Subscription Term at Nasuni’s then-current rates (or such other renewal rate, if any, specified on the Order). The renewal of promotional or one-time priced subscriptions will be at our then-current list price in effect at the time of the renewal, unless otherwise stated on the Order or otherwise agreed by the parties in writing at the time of the renewal.

2.3 Professional Services. Any Professional Services to be performed by Nasuni in connection with the configuration, implementation and use of the Solutions will be performed pursuant to this Agreement, including the Additional Terms for Professional Services attached hereto as **Exhibit B**.

3. USE OF THE SOLUTIONS

3.1 Authorized Users. Upon installation of a Software Solution, you will be given default Access Controls, and you will be required to change such Access Controls to Access Controls generated and controlled by you. You, and not Nasuni, are responsible for the creation of all other Access Controls and their use by your Authorized Users. If you choose to integrate the Solutions with active directory services, then the administrative rules generated by such services will govern access to the Solutions. You are responsible for your Authorized Users compliance with this Agreement and the activity occurring under your account by Authorized Users, even if such Authorized Users gain access by means of the active directory services with which you integrate. You will not disclose Access Controls other than to your Authorized Users and will use reasonable efforts to prevent unauthorized access to your Access Controls. You agree to promptly notify Nasuni of any actual or suspected unauthorized use of your account that you discover. If you allow use of the Solutions by your Affiliates, you agree to be responsible for such Affiliates’ use and for their compliance with the terms of this Agreement.

Nasuni will not be liable for any unauthorized access to, use of, or alteration, corruption, deletion or loss of any Customer Data in connection with any Authorized User's or third party's use of your Access Controls, unless caused by Nasuni.

3.2 Copying. At your own expense, you may make a reasonable number of copies of the Software that Nasuni makes available for download from the Nasuni customer dashboard, or any components thereof, solely for your archival and back-up purposes. You agree to reproduce, and not to remove, all copyright and other proprietary notices on such copies.

3.3 Third Party Services and Equipment. You are responsible for obtaining, maintaining, and supporting at your own expense all hardware, software, and services required to access and use the Solutions, including hosting or storage services, internet access, telecommunications services, or other services. Nasuni shall have no liability for the acts or omissions of your third-party providers. You may purchase Equipment for use with the Solutions from Nasuni or a Nasuni authorized reseller. Equipment is not subject to the terms of this Agreement but is subject to the warranties, terms and conditions set forth on the Order for the Equipment or as otherwise required by applicable law. Nasuni does not control your cloud or other storage, which you choose and purchase from a third party.

3.4 Restrictions. You may not use the Solutions other than as authorized in this Agreement or in your Order. You may not (and may not contract with, or permit, a third party to) (1) modify, translate, or create or attempt to create any derivative works of the Solutions, (2) use, resell, sublicense, rent, lease, assign or share the Solutions, or any component thereof, with or for any third party (unless authorized in your Order), (3) use the Solutions for unlawful or illegal purposes, (4) decompile, disassemble, or reverse engineer the Solutions or attempt to derive the source code of the Solutions (except as permitted by law), (5) access the Solutions if you are a competitor of ours or use the Solutions to build a similar or competitive work, (6) interfere with or attempt to interfere with the integrity, security, functionality or proper working of the Solutions, (7) attempt to bypass, delete or disable any security features of the Solutions, or permit or gain unauthorized access to the Solutions, (8) introduce or propagate any unauthorized data, virus, worm, time bomb, Trojan horse or any other harmful or malicious code into the Solutions, or (9) alter or remove any copyright or other proprietary notices contained on the Solutions or any component thereof.

3.5 Legacy Data Storage Services. Notwithstanding anything to the contrary in this Agreement, if you are a legacy customer of Nasuni's Data Storage Services and you are continuing to use and pay for such Data Storage Services when this Agreement is accepted or further revised (by posting of a new version of this Agreement as described below), then you agree: (1) to use the Data Storage Services only in connection with your use of the Solutions and only through interfaces and protocols provided or authorized by Nasuni; (2) that you have sufficient rights to store the Customer Data using the Data Storage Services; (3) that you will not store more Customer Data than is stated on your Order and that, if you do, you will pay Nasuni for such additional storage at Nasuni's then- current fees in accordance with the payment terms set forth in Section 5.3 below.

3.6 Nasuni Connector. If you choose to use the Nasuni Connector at any time during the Term, you will be using it to extract copies of your file data, in native object form, out of the Software. For avoidance of doubt, this Agreement no longer applies to the file data that you have extracted from the Software by using the Nasuni Connector or any other data extraction method.

4. SUPPORT/UPDATES

4.1 Technical Support. Nasuni provides technical support in accordance with its then-current Support Policy. Nasuni is not responsible for providing support for problems arising out of errors in your data, formulas, databases, access to other software or databases, configuration errors in your network or environment, performance limitations in your network, or other problems not in arising out of the Solutions not in Nasuni's control, or for any unauthorized use or modification of the Solutions. Technical support for such matters or other matters beyond the scope of the Support Policy may result in additional Fees.

4.2 Maintenance and Updates. Nasuni makes Updates to the Solutions on an ongoing basis. Except in the case of urgent Updates, Nasuni schedules maintenance during appropriate, non-peak usage hours (in an attempt to minimize the impact on all users, worldwide) and will provide advance notice of any planned unavailability (if reasonably possible). Nasuni gives you tools so you can reasonably control and manage the timing of your deployment of the Updates.

4.3 Changes. Nasuni reserves the right to change, add to, or discontinue any feature or function of the Solutions or Support Terms, the equipment needed for access or use, and the types of files that can be stored or processed using the Solutions. Nasuni will notify you of any material change to the Solutions or Support Terms and, at a minimum, will post such change(s) in the release notes on the customer support portal. If any change materially diminishes the Solutions, you may, as your sole and exclusive remedy, terminate your subscription for the applicable Solution(s) by giving written notice to Nasuni no later than thirty (30) days after the date the release note describing such change is posted to the customer support portal, and Nasuni will provide you a prorated refund any Subscription Fees paid by you for the

affected Solution(s) based upon the amount of time remaining in the applicable Subscription Terms as of the Termination Effective Date.

5. PAYMENT

5.1 Payment Terms. If you have purchased the Solutions through a Nasuni reseller or online marketplace, your applicable payment terms with the reseller/marketplace shall apply to such Order(s). If you purchase Solutions directly from Nasuni, unless otherwise specified in your Order(s), all amounts payable under this Agreement are due and payable within 30 days from the invoice date. Payment shall be made in USD. Invoices will be sent directly to the billing contact identified on the Order (and you agree to keep Nasuni informed of any updates or changes to your billing contact information). Late payments (on any undisputed amounts) may be subject to interest charges of 1.0% per month (or the maximum permitted by law, whichever is lower) and the expenses associated with those collections. Billing disputes must be reported to Nasuni (in writing) within 60 days of the invoice date. Except as otherwise provided in this Agreement, all payment obligations are non-cancelable and once paid are nonrefundable.

5.2 Taxes. All Fees are exclusive of any applicable sales and use taxes (such as GST or VAT) related to your purchase and use of the Solutions, and you are responsible for all such taxes. Nasuni is responsible for the payment of all taxes related to Nasuni's income or its employees.

5.3 Excess Usage. You agree to pay Nasuni any charges applicable to your use of the Solutions in excess of the usage limitations set forth on the Order at Nasuni's then-current rates (or such other rate for excess usage, if any, specified in your Order).

6. CUSTOMER DATA

6.1 Customer Data. You are responsible for the accuracy, quality, integrity, and legality of your Customer Data. You represent and warrant that you own, or have the right to use, your Customer Data and that you have collected the Customer Data in accordance with applicable law. Nasuni has no ownership or other rights in or to any Customer Data.

6.2 Customer Data Security. You are responsible for (i) properly configuring the access rights for your Authorized Users, (ii) any access or use of your Nasuni Solutions account, including your Authorized Users' access and use of the Solutions, (iii) the adequate backup and protection of Customer Data while stored on your (or a third party's) equipment or service, and (iv) the secure transmission of your Customer Data utilizing the Solutions. Any files that were corrupted, for any reason, prior to your storage or access of such files using the Solutions can only be restored to the same condition in which they were originally stored or accessed. Nasuni will not be liable for any unauthorized access to, or use, alteration, corruption, deletion, destruction or loss of any Customer Data, unless caused by Nasuni.

6.3 Encryption. The Software encrypts Customer Data before it is transmitted to your storage provider. Customer Data is encrypted using private, Customer keys that are controlled and maintained by you and you alone. Nasuni has no ability to decrypt Customer Data without the use of such Customer keys. Even if you have requested Nasuni to escrow a copy of your private Customer key(s) for recovery purposes, you acknowledge and agree that a passphrase is required for you to access via the self-service features of the Software the Customer keys necessary to read your data, and that YOU ALONE HOLD THAT PASSPHRASE, not Nasuni. If you lose that passphrase and request a manual recovery key from Nasuni as a last resort for you to de-escrow the Customer key(s) needed to access your data, you HEREBY RELEASE, HOLD HARMLESS, WAIVE, DISCHARGE AND COVENANT NOT TO SUE NASUNI, its directors, officers, shareholders, employees or agents from, AND NASUNI HEREBY EXPRESSLY DISCLAIMS, any and all loss, liability, damage, or cost that you may incur or which may arise from the escrowing of your private keys, the de-escrowing of such keys and/or such recovery key. If you are a legacy customer of Nasuni's Data Storage Services for whom Nasuni escrowed a copy of your private keys for your recovery purposes, Nasuni will not use such private keys to access Customer Data stored with Nasuni unless requested by you or unless Nasuni is required to do so by applicable law.

6.4 Data Access. You manage and control access to your account (through your use of Access Controls) and the use and Processing of your Customer Data. Nasuni will not access Customer Data except (a) as specifically authorized by you; and (b) by authorized personnel of Nasuni as necessary to provide the Solutions, including to identify, investigate, or resolve technical problems with the Solutions, to deliver Support or Professional Services. Nasuni will ensure that Customer Data that is accessed by Nasuni will (1) be kept confidential, (2) handled according to applicable laws and regulations, and (3) not be shared with any unauthorized personnel or co-mingled with other customers' data.

6.5 Protected Information. You acknowledge that the Software is not designed (or intended) for Nasuni to access your Customer Data or Protected Information. Each party agrees to comply with all applicable data protection laws with respect to its Processing of Protected Information of the other party which it may receive in connection with this Agreement. Nasuni may potentially be exposed to your Protected Information if it is contained unencrypted within the Customer Data which Nasuni accesses for the limited purposes set forth in Section 6.4 ("Data Access"). You agree that

you are the Data Controller of any such Protected Information and Nasuni is a Data Processor of such Protected Information on your behalf. The Nasuni Data Processing Addendum (available at <https://www.nasuni.com/legal/data-processing-addendum/>, the "Nasuni Data Processing Addendum") will apply to Nasuni's Processing of any Protected Information on your behalf, and the parties hereby agree to comply with such Nasuni Data Processing Addendum, incorporated herein.

7. TERM AND TERMINATION/SUSPENSION

7.1 Term. This Agreement commences on the earlier of (1) the start date specified on the Order, or (2) the date you access and use the Solutions, and continues for the Subscription Term (including any Renewal Subscription Terms) of such Order (collectively, the "**Term**").

7.2 Termination. If there are no Orders or Subscription Terms then in effect under this Agreement, a party may terminate this Agreement immediately by providing written notice to the other party. If there are any Orders or Subscription Terms then in effect, a party may terminate this Agreement upon written notice to the other party, provided however, such termination shall not be effective until the expiration of the last to expire of such Orders/Subscription Terms. In addition, either party may terminate this Agreement, and any then outstanding Orders, by written notice to the other party (1) if the other party commits a material breach of this Agreement and does not cure the breach within 30 days of receiving such written notice, or (2) if the other party becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors that is not dismissed within, or continues for, a period of thirty (30) days. If you terminate this Agreement for Nasuni's uncured material breach, Nasuni will provide you a prorated refund any Subscription Fees paid by you for the affected Solution(s) based upon the amount of time remaining in the applicable Subscription Terms as of the Termination Effective Date.

7.3 Effect of Termination. On the effective date of termination of this Agreement (the "**Termination Effective Date**"), you will (1) stop using and accessing the Solutions (other than as permitted in Section 7.4), (2) pay to Nasuni any Fees that had accrued (but had not been paid) prior to the Termination Effective Date; and (3) delete all copies of the Solutions, Documentation, and any other Nasuni Confidential Information then in your possession. Except as otherwise provided in Section 7.4, any post-termination transition assistance requested of Nasuni is subject to the mutual written agreement of the parties (and shall require payment of reasonable Fees). Sections 3, 6, 7.2-7.4, and 8 through 12 and 14 will survive the termination of this Agreement.

7.4 Access to Software Following Termination. You may continue to use the Software to access Customer Data in your third-party storage provider for up to 30 days after the Termination Effective Date ("Grace Period"), provided that you are current in the payment of all Subscription Fees due or owing for any Order(s) hereunder as of the Termination Effective Date. If, however, you wish to continue to access or use any Solutions after such Grace Period, then, you must pay the annual Subscription Fees for all applicable Solutions for the one-year period commencing upon the Termination Effective Date.

7.5 Suspension of Access. Nasuni reserves the right to suspend or limit access to the Solutions if (1) Nasuni is prohibited by court order or order of another governmental authority from providing access to the Solutions, (2) Nasuni reasonably determines that the Solutions are subject to a security incident, denial of service attack, or other event that impacts the security of the Solutions or Customer Data, (3) Nasuni reasonably determines that you are using the Solutions in a way that creates a security vulnerability to the Solutions, (4) Nasuni reasonably determines that you are using the Solutions in violation of applicable law, or (5) you have not paid the Fees (including subscription fees for any Renewal Term) when due. Nasuni will, to the extent possible and practicable, give you prior notice if access will be suspended and, if the issue is capable of resolution, will promptly restore access once the issue has been resolved. Without limiting the foregoing, Nasuni will give you at least thirty (30) days' written notice of any planned suspension due to non-payment or other breach of this Agreement. Nasuni will not suspend access if you have corrected such non-payment or other breach within such 30-day notice period or if you are (reasonably and in good faith) disputing a charge and cooperating in resolving the dispute. Nasuni shall have no liability for any damage, loss, or liability arising from any suspension, limitation or termination of your access to the Solutions pursuant to this Section 7.5 done by Nasuni in good faith and in accordance with the terms hereof.

8. CONFIDENTIALITY

8.1 Confidentiality. Each party, in performing its obligations or exercising its rights hereunder, may need to provide the other with certain Confidential Information. The receiving party may only use this Confidential Information for the purpose for which it was provided and may only share this Confidential Information with its employees, agents, and representatives who need to know it, provided they are subject to similar confidentiality obligations. The receiving party will protect the other party's Confidential Information in a similar way to how it protects its own confidential information, but using at least a reasonable degree of care, to prevent any unauthorized use or disclosure of this Confidential Information.

8.2 Exceptions. Confidential Information does not include any information that (1) was known (without any

confidentiality obligations) prior to disclosure by the disclosing party, (2) is publicly available (through no fault of the receiving party), (3) is rightfully received from a third party (without a duty of confidentiality), or (4) is independently developed (without access or use of Confidential Information). The receiving party may disclose Confidential Information when compelled to do so by law, so long as the receiving party provides prior written notice of the disclosure (if legally permitted) to allow the disclosing party the opportunity to seek protection or confidential treatment or to limit or prevent such disclosure. The receiving party also agrees to cooperate with the disclosing party at the disclosing party's expense if the disclosing party chooses to contest the disclosure requirement, seek confidential treatment of the information to be disclosed, or to limit the nature or scope of the information to be disclosed. If the receiving party is compelled by law to disclose the disclosing party's Confidential Information as part of a civil proceeding to which the disclosing party is a party, and the disclosing party is not contesting the disclosure, the disclosing party will reimburse the receiving party for its reasonable cost of compiling and providing secure access to the Confidential Information.

8.3 Equitable Relief. The receiving party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the disclosing party, entitling the disclosing party to seek injunctive relief in addition to all legal remedies.

9. PROPRIETARY RIGHTS

9.1 Nasuni IP. Nasuni, or its licensors, retains all rights, title and interest in and to the Solutions, including any modifications, enhancements and derivative works. Except for the right to use the Solutions as set forth in this Agreement, no other right or license is granted to you. This Agreement does not grant any ownership rights to the Solutions. The Solutions may contain open-source software. Nasuni will make a copy of the open-source license available to you upon your request. There may be provisions in the open-source license that prevail. Nasuni may ask you for Feedback. If you elect to provide Feedback, Nasuni may freely use and exploit the Feedback you provide (without any obligations or restrictions).

9.2 Usage Data. Nasuni monitors and collects data about the general use of the Solutions by all customers. This data does not include or contain any Customer Data or Protected Information. Nasuni uses this data for its own business purposes (such as improving, testing, and maintaining the Solutions and developing additional products and services), and from time to time, may publish this data (in the aggregate, which would not identify you or any other customer specifically) for informational and other such purposes.

9.3 Attribution. Nasuni may use your name (and the corresponding trademark or logo) on Nasuni's website and in any marketing or publicity to identify your business as a customer, subject to any usage guidelines that you provide or any pre-approval or authorization you tell us in writing that you require. Any other use requires your written consent (which you agree not to unreasonably withhold or delay).

10. LIMITED WARRANTY

10.1 Limited Warranty -- Software. Nasuni warrants that the Software will operate substantially in accordance with its Documentation during the Subscription Term. To state a claim for breach of the foregoing warranty, Customer must provide notice of such non-compliance within the thirty (30) day period following such non-compliance specifying the details of such non-compliance. Nasuni shall use commercially reasonable efforts to cause the Software to conform to this warranty and you agree to reasonably assist Nasuni in identifying, reproducing and correcting the non-conformity. If Nasuni does not cure non-compliance within thirty (30) days of receiving notice thereof, then, as your sole and exclusive remedy, you may terminate the applicable Order with respect to the non-compliant Software and Nasuni shall provide you a prorated refund of any Subscription Fees paid by you for the affected Solution(s) based upon the amount of time remaining in the applicable Subscription Terms as of the Termination Effective Date. Nasuni further warrants that it will use industry standard efforts to ensure that the Software, at the time of delivery, does not contain any spyware, malware, time bomb, virus, worm, Trojan horse or any other harmful or malicious code. Nasuni has no obligation for any breach of the foregoing warranties arising out of or relating to (i) your use of the Software other than as specified in the Documentation, (ii) your use or combination of the Software with any software, hardware or service not supported by Nasuni, (iii) causes external to the Software, such as problems with the hardware, network or infrastructure with which the Software is used, (iv) any unauthorized or improper use of the Software, or (iv) any modification of the Software by anyone other than Nasuni.

10.2 Limited Warranty -- Services. Nasuni warrants that the Services will be performed in a professional manner in accordance with generally accepted industry standards for such Services. Customer's exclusive remedies and Nasuni's sole liability for breach of this Services Limited Warranty is for Nasuni to re-perform such Services and/or, if such non-performance is not possible or fails to correct such breach, to terminate that portion of the affected SOW or Order related to the applicable Services for which such breach occurred and receive a refund from Nasuni a pro-rata refund of pre-paid, as yet unearned Fees for such Services.

10.3 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, TO THE FULLEST EXTENT

PERMITTED BY APPLICABLE LAW, EACH PARTY DISCLAIMS ALL WARRANTIES, TERMS, CONDITIONS AND UNDERTAKINGS, EXPRESS OR IMPLIED (INCLUDING BY STATUTE, CUSTOM OR USAGE, COURSE OF DEALING, OR COMMON LAW), INCLUDING BUT NOT LIMITED TO, WARRANTIES OF SATISFACTORY QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT (BUT FOR CLARITY THIS DISCLAIMER DOES NOT LIMIT NASUNI'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 12.1). WITHOUT LIMITING NASUNI'S EXPRESS OBLIGATIONS IN THE NASUNI DATA PROCESSING ADDENDUM, SECTIONS 10.1 AND 10.2 OR 4.1, NASUNI DOES NOT WARRANT THAT YOUR USE OF THE SOLUTIONS WILL BE ENTIRELY SECURE, UNINTERRUPTED OR ERROR-FREE OR THAT THE SOLUTIONS WILL MEET YOUR BUSINESS GOALS OR OTHER REQUIREMENTS OR EXPECTATIONS, OR THAT ALL ERRORS WILL BE CORRECTED. NASUNI SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES, DATA LOSS OR CORRUPTION NOT CAUSED BY THE SOLUTIONS, INCLUDING BUT NOT LIMITED TO DATA LOSS OR CORRUPTION CAUSED BY YOU, YOUR CLOUD STORAGE PROVIDER, OR OTHER THIRD-PARTY SERVICE, SOLUTION, PLATFORM, EQUIPMENT OR VIRTUAL APPLIANCE.

11. LIMITATION OF LIABILITY

11.1 Consequential Damages Waiver. EXCEPT FOR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS, A PARTY'S BREACH OF CONFIDENTIALITY, OR ARISING FROM A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR ANY OTHER STATUTORY OR OTHER LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW (COLLECTIVELY, "EXCLUDED CLAIMS"), NEITHER PARTY (OR ITS LICENSORS) SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOSS OF GOODWILL, LOST PROFITS, ANY LOSS OF USE, LOSS OF DATA, OR INTERRUPTION OF BUSINESS), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT SUCH PARTY WAS INFORMED OF THE POSSIBILITY OF SUCH DAMAGE.

11.2 Liability Cap. EXCEPT FOR EXCLUDED CLAIMS, NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, A PARTY'S (AND ITS SUPPLIERS') ENTIRE LIABILITY FOR ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID OR PAYABLE BY CUSTOMER DURING THE PRIOR TWELVE MONTHS UNDER THIS AGREEMENT. You acknowledge and agree that the prices set forth in each Order adequately reflect this allocation of risk and limitation of liability.

12. INDEMNIFICATION

12.1 By Nasuni. Nasuni will defend, indemnify and hold you harmless from and against, and pay any final award of damages or settlement amount and any liabilities or expenses incurred by you (including reasonable attorneys' fees), as a result of any claim brought against you by a third party that alleges that the Solutions infringes any patent, trademark or other intellectual property right of a third party. If the use of the Solutions is (or in Nasuni's opinion is likely to be) enjoined due to such a claim, Nasuni will at its option either (1) procure the right to continue using the Solutions under the terms of this Agreement, (2) replace or modify the Solutions so that it is non-infringing (but functionally equivalent), or (3) if Nasuni determines that neither of these options is reasonably available, then Nasuni may cancel your subscription with respect to the infringing Solutions and refund you the unused portion of the Subscription Fees paid for the Solutions for which the use is legally prohibited. Nasuni will have no liability for any claim of infringement based on (a) your use or combination of the Solutions with any other software, hardware or service not supported by Nasuni, if such infringement would not have occurred but for such use or combination, (b) any modification of the Solutions by anyone other than Nasuni (or a third party acting on behalf of Nasuni), or (c) the use of any version of the Solutions other than the most current version, if such version was made available to you by Nasuni with notice that such version was being provided in order to avoid an alleged or potential infringement. This section describes Nasuni's entire responsibility and your sole remedy for any infringement claim or action.

12.2. By Customer. You will defend, indemnify and hold Nasuni harmless from and against any claim brought against Nasuni by a third party, any final award of damages or settlement amount, and any liabilities or expenses incurred by Nasuni (including reasonable attorneys' fees) as a result of any claim arising out of or relating to any claim that Customer Data violates any applicable law, regulation, or the proprietary rights of others.

12.3 Process. These indemnity obligations are conditioned on the indemnified party promptly notifying the indemnifying party in writing of the claim (a delay in providing notice does not excuse these indemnity obligations unless the indemnifying party is prejudiced by such delay); the indemnified party giving the indemnifying party sole control of the defense of the claim (and in any related settlement negotiations); and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense. The indemnified party may participate in the defense of the claim using its own counsel (at its own expense). The indemnifying party may not settle the claim without the indemnified party's consent, which will not be unreasonably conditioned, withheld or delayed, if such settlement imposes a

payment or other binding obligation on the indemnified party.

13. INSURANCE. During the Term Nasuni shall, at its expense, maintain insurance of such type and level as is reasonable and prudent in the circumstances. Such insurance shall be carried with responsible insurance companies of recognized standing which are authorized to do business in the jurisdictions in which the Services are rendered and are rated A- or better by A.M. Best. Upon Customer's request, Nasuni shall furnish Customer with a certificate of insurance providing evidence of its insurance coverages, will ensure that Customer receives at least thirty (30) days prior notice of any termination or expiration of such insurance and will through blanket endorsements include its customers as additional insured on all applicable policies. Such insurance shall include the following types and limits:

<u>Insurance Coverage</u>	<u>Limits of Liability</u>
Workers Compensation	Statutory
Employers Liability	\$1,000,000
Commercial General Liability	\$1,000,000 per occurrence /\$2,000,000 general aggregate
Cyber/Professional Liability	\$5,000,000 aggregate limit
Automobile Liability –hired and non-owned	\$1,000,000 Combined Single Limit
Umbrella Liability	\$15,000,000 per occurrence and aggregate

14. GENERAL

14.1 Relationship of the Parties. This Agreement does not create or imply any agency, partnership, or franchise relationship. This Agreement is intended for the benefit of the parties and, except as specifically set forth herein, is not intended to benefit any third party. Neither party has the authority to assume or create any obligation on behalf of the other party.

14.2 Assignment. Neither party may assign an Order or this Agreement without the other party's prior written consent, except to an Affiliate or in connection with a merger, acquisition, reorganization, or sale of all or substantially all of the assets or equity of such party. Any attempt to assign any Order or this Agreement other than as permitted in this Agreement will be null and void. This Agreement is binding upon and inures to the benefit of each party and its respective successors and assigns.

14.3 Subcontractors. Nasuni may use independent contractors or subcontractors inside or outside of the United States to perform its obligations under this Agreement, and Nasuni will be responsible for ensuring that such independent contractors and subcontractors comply with the terms of this Agreement in the performance of Nasuni's obligations hereunder and shall be liable for any breach of such obligations by its independent contractors and subcontractors.

14.4 Notices. Any notice, approval, consent, or other communication intended to have legal effect under this Agreement must be given to the other party in writing, by first-class, registered, or overnight mail or private overnight courier (to the address for the other party stated above, unless the other party has given notice of a new address) and will be deemed given upon receipt.

14.5. Government End-Users. The Software is commercial computer software developed at private expense as defined in FAR 2.101 or DFAR 252.227-7014. If you are an agency, department or other entity of the U.S. Government, the use, duplication, reproduction, release, modification, disclosure and transfer of the Software, Documentation, including any technical data, is restricted only to those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). All other use is prohibited.

14.5. Export-Import Compliance. The Solutions are subject to U.S. export controls and may not be (a) activated or downloaded in or transferred, exported or re-exported to, or used in, any embargoed or sanctioned region or country, or any country subject to anti-terrorism restrictions (currently including, without limitation, Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk People's Republic, and Luhansk People's Republic regions of Ukraine) (each a "**Sanctioned Country**"), or (b) downloaded by or made available to any Prohibited Person. A Prohibited Person refers to (i) any individual, organization or entity (A) located, organized, or resident in any Sanctioned Country, (ii) identified on any U.S. or other applicable governmental restricted or sanctioned parties lists, including without limitation, the Specially Designated Nationals and Blocked Persons List, the Foreign Sanctions Evaders List, and the Sectoral Sanctions Identifications List, maintained by the Department of the Treasury's Office of Foreign Assets Control (OFAC), and the Denied Persons List, Entity List, and Unverified List, maintained by the U.S. Department of Commerce's Bureau of Industry

and Security; (iii) owned or controlled by any person or entity described in (i) or (ii), or (iv) the government of Venezuela. By downloading and/or using Software, you represent and warrant that such download or use will not occur in any Sanctioned Country, or by any Prohibited Person, or under the control of or acting on behalf of any such person. You further acknowledge and warrant that you are solely responsible for compliance with local authorities with regard to the importation and use of Solutions outside of the United States. Nasuni does not assume any responsibility for your compliance obligations related to this Agreement.

14.6 Compliance with Laws/Anti-Corruption Obligations. Each party shall comply with all laws and regulations applicable to the performance of its obligations hereunder. In addition, each party warrants that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any employee or agent of the other party its agents or representatives in connection with this Agreement. Appropriate gifts and/or entertainment of limited value directly related to bona fide business activity and provided transparently in the ordinary course of business do not violate this restriction. If you learn of any violation of the foregoing provision by Nasuni, please notify Nasuni at legal@nasuni.com.

14.7 Governing Law. If you are located in the United Kingdom, governing law is the law of England and Wales, and jurisdiction and venue is in London, England. If you are located in Switzerland or the EEA, governing law is Ireland, and jurisdiction and venue is in Cork, Ireland. If you are located within the Americas or in a country other than the United Kingdom, Switzerland or EEA, governing law is the Commonwealth of Massachusetts, U.S.A. and jurisdiction and venue is in Suffolk County, Massachusetts, U.S.A. Governing law is without regard to any conflicts of law principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

14.8. Language. The parties confirm that it is their desire that this Agreement, and all related documents, including notices, shall be written in the English language only.

14.9. Entire Understanding; Severability. This Agreement constitutes the complete and exclusive understanding and agreement between the parties regarding this subject and supersedes all prior or contemporaneous agreements or understandings (written or verbal) relating to this subject matter of this Agreement. No pre-printed or boilerplate terms in any Order or any other Customer or reseller order documentation are incorporated into or form any part of this Agreement and the terms of this Agreement expressly supersede any such pre-printed or boilerplate terms. If any terms are found to be void or unenforceable, the remaining terms of this Agreement will remain in full force and effect. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, then such provision shall be deemed void and severed from this Agreement and the remainder of this Agreement shall remain in full force and effect.

14.10 Modification; Waiver. Nasuni has the right to amend the terms and conditions of this Agreement at any time, effective upon posting of an updated version of this Agreement at <https://www.nasuni.com/legal/>. You are responsible for regularly checking the Nasuni website to inform yourself of such changes. Continued use of the Software after any such changes are posted will constitute your consent to such changes. The waiver by either party of a breach of any provision hereof shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of such party to avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege.

14.11 Force Majeure. Except for payment obligations, if either party is unable to perform any obligation under this Agreement to due to any act of God, fire, casualty, flood, war, strike, shortage or any other cause beyond its reasonable control, and if such party uses reasonable efforts to avoid such occurrence and mitigate its duration and effects, then its performance shall be excluded and the time for performance shall be extend for the period of delay or inability to perform.

14.12 Statutory Exceptions for Public Institutions. If you are a qualified public educational or government institution and any terms in this Agreement (such as, by way of example, all or part of the indemnification section) are invalid or unenforceable against you because of applicable law, then those terms will be deemed excluded and unenforceable (as the case may be), and instead construed in a manner most consistent with applicable governing law. In addition, if the applicable governing law is precluded in these situations, then this Agreement will be construed under the laws of the state/province in which your primary office is located.

14.13 Headings. The headings in this Agreement are for convenience only and shall not be considered in its interpretation or construction.

EXHIBIT B -- ADDITIONAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

1. Additional Definitions.

“Change Order” means any written and signed change to an SOW or Order as further described in Section 3 below. Change Orders shall be incorporated into the applicable SOW or Order once signed by both parties.

“Deliverables” means any items that are expressly defined as deliverables in an SOW or Order.

“Statement of Work” or **“SOW”** means a written statement of work signed by the parties and describing the Professional Services to be provided and which is incorporated into an Order and subject to this Exhibit A and the Agreement.

2. Scope. Subject to your payment of Professional Services Fees as further described below and set forth on an Order or in an applicable SOW, Nasuni will provide you with the Professional Services, including any Deliverables, as specified on each SOW or Order(s). You agree that your purchase of Professional Services is not contingent upon the delivery of any future functionality or features or on any written or oral comments by Nasuni regarding the availability of any future functionality or features.

3. Changes. Changes to an SOW or Order for Professional Services require a Change Order that identifies the applicable SOW or Order. Such changes may include changes in the Scope, estimated fees and schedule. You agree to pay the fees and expenses as set forth in each Change Order. If you request that Nasuni perform Professional Services outside the Scope of any SOW or Change Order, you agree to pay for such Professional Services at Nasuni’s then-current time and material rates.

4. Acceptance. You are responsible for reviewing and testing all Deliverables in accordance with the SOW or Order pursuant to any written acceptance criteria applicable to such Deliverable. You agree to provide Nasuni with prompt written notice of acceptance or rejection of each Deliverable. Failure to reject a Deliverable will be deemed Acceptance. To reject a Deliverable, you must do so within Ten (10) business days after delivery and you must specify in detail the failure(s) of such Deliverable to conform to any agreed to acceptance criteria (i.e., a “non-conformity”). We will use commercially reasonable efforts to correct such non-conformity and resubmit the Deliverable as soon as practicable, and you will have ten (10) business days to re-test the Deliverable. If the Deliverable fails to meet the acceptance criteria after its second submission to you, you may terminate the SOW or Order upon written notice and recover all fees paid for the non-conforming Deliverable. If you report a non-conformity in any Deliverable after the 10-business day acceptance period, then any correction will, at Nasuni’s option, be subject to revised rework estimates and completion timelines, and timelines and costs will need to be adjusted accordingly. If the parties determine that the acceptance criteria of a Deliverable require modification (for example, due to incorrect assumptions or changed requirement), they will cooperate in good faith with each other to execute a Change Order reflecting such modification.

5. Your Responsibilities. You will cooperate reasonably and in good faith with Nasuni in its provision of the Professional Services. Without limiting the foregoing, and in addition to any other responsibilities allocated to you under an SOW or Order, you agree to 1) allocate sufficient resources to enable Nasuni to perform its obligations under each SOW and Order; 2) timely perform all tasks as necessary for Nasuni to perform its obligations under each SOW and Order; 3) timely respond to Nasuni’s inquiries relating to the Professional Services, 4) assigning internal project manager(s) to be Nasuni’s primary contact who is skilled and knowledgeable about the project to which the Professional Services relate; 5) actively participate in scheduled project meetings; and 6) provide complete, accurate and timely feedback and information as reasonably required for Nasuni to perform the Professional Services. Any delays in performance of the Professional Services or delivery of the Deliverables that you cause may result in additional charges.

6. Professional Services Fees. You will pay us for the Professional Services at the rates specified in the SOW or Order (or, if no rate is specified, at Nasuni’s then current time and materials rates.) Professional Services are performed on a fixed Fee, or time and materials basis, as specified in the SOW or Order. On a time and materials engagement, if an estimated total amount is stated in the SOW or Order, that amount is solely a good faith estimate for your budgeting, and Nasuni’s resource scheduling purposes and is not a guarantee that the Professional Services will be completed for that amount; the actual amount may be higher or lower. You agree to pay the Professional Services Fees set forth in the applicable SOW or Order, plus any reasonable expenses, if pre-approved by you in writing, and incurred in connection with the performance of the Professional Services.

7. Proprietary Rights. Nasuni will retain all rights, title and interest in and to its Solutions and to any and all enhancements, modifications, improvements, corrections and derivative works thereto, such as may be created during Nasuni’s performance of Professional Services hereunder. Nasuni owns all work product, including any methodologies, techniques, know-how and processes related thereto, and upon your payment of applicable Professional Services Fees under any SOW or Order, Nasuni licenses such work product to you solely for your use of the Solutions during the Term. You do not grant Nasuni any rights in your intellectual property except such licenses as may be required for Nasuni to

perform its obligations under the applicable SOW or Order. You will retain all rights, title and interest in and to your own information and data, and your processes, standards, practices, management policies and procedures, and all of your Confidential Information.

[END]