

Terms of Use for Enterprise (Server Licence Package)

Section 1 (Purpose)

These terms (hereinafter referred to as “Terms”) to use the Enterprise provide the terms and conditions applicable where the user(hereinafter referred to as “User(s)”) who is licensed by Nulab Inc. (hereinafter referred to as “Nulab”) to use the following Enterprise software (hereinafter referred to as “Software”) and to install the Software in the User’s server:

- a. Project management tool ‘Backlog’
- b. Visual collaboration tool ‘Cacoo’
- c. Any other software that Nulab may release as part of the Software

Section 2 (Apply for a license to use/ Conclusion of the licence contract)

1. The Users may, after accepting the Terms, apply for the license to use the Software in the manners prescribed by Nulab.
2. Upon the application under the preceding Paragraph, the license contract on the Terms is considered to be concluded between the User and Nulab.
3. The Administrator of the Users shall create a Nulab Account in the way as otherwise specified by Nulab.

Section 3 (License to use)

Provided that the User shall perform the Terms, Nulab will grant the non-exclusive license to use on the Terms the Software.

Section 4 (Licence Authentication Key)

1. Nulab will give to the User who has a valid license contract with Nulab under Section 2 to use the Software, a license number and an authentication code (collectively referred to as the “Licence Authentication Key”) that are requested to use the Software.
2. The User may use the Licence Authentication Key and install the Software into the User’s server by the measures prescribed by Nulab.
3. The User shall hold the License Authentication Key under a strict security and shall not disclose, transfer or lend it to a third party.
4. If the License Authentication Key has been used by a third party for any reason, Nulab will not be responsible or liable for any losses or damages.
5. Nulab ensures that the License Authentication Key operates with the latest MINOR version and the previous MINOR version (meaning a version when you add functionality in a backwards compatible manner, which is specified by Semantic Versioning 2.0.0 (<https://semver.org/>). The same shall apply in Section 11 Paragraph 3.)

Section 5 (Limited Users of the Software)

1. The Software shall be used within the limited number of Users selected when User applied for the license(hereinafter referred to as “Headcount”) and the Users shall belong to a designated organization including, but not limited to a company, an enterprise, a corporation, an association or an entity (hereinafter referred to as “Designated Organization”) listed when the User applied for the license. If a User does not belong to the Designated Organization for reasons such as assignment to a new job or turnover, the User may not use the Software from then on. If a Designated Organization has been entirely or partially changed and does not share the same identity due to the organizational restructure etc. of the User, the User who belongs to such a new organization may not use the Software.
2. The User may add some people who do not belong to the Designated Organization as Users within a number not exceeding Headcount, provided that they use the Software

for the purpose of executing a project with the Designated Organization. In this case, there will be no additional license fee payable.

3. Except for the case referred to in the preceding paragraph, the User shall not allow the person who does not belong to the Designated Organization to use the Software.
4. If the User breaches any provision of this Section and if it is found that any person who does not belong to the Designated Organization is using, has used or used the Software, the User shall pay the double licence fee to Nulab immediately when Nulab demands such fee.

Section 6 (Period)

1. The period during which the User may use the Software shall be the period that Nulab will separately decide, and the starting date and ending date of the period will be separately notified to the User by Nulab.
2. The User may extend the using period by making an application in the manner prescribed by Nulab. The length of the extension period, license fee and other terms shall be separately decided by Nulab.

Section 7 (License Fee)

1. The license fee for the use of the Software shall be set out by the license fee policy that will be separately prescribed by Nulab.
2. The User shall pay the license fee in the preceding Paragraph, by the due date and with the payment method specified by Nulab on the price list, on the website, by e-mail or in other way. In the case the User pays the license fee into the bank account designated by Nulab, any bank fee for money transfer shall be borne and payable by the User.
3. Nulab may, without obtaining any consent from the User, review or change the licence fee policy. The new license fee after the review or change shall be applicable to the new application for use or after the extension of the using period.
4. Any license fee and other expenses in whatever nature that have been paid by the User to Nulab (including the payment provided by Section 5 Paragraph 4), shall not be refundable for any reason.

Section 8 (Rights)

The User hereby accepts and confirms that the ownership right, the intellectual property rights such as copyright, and any other rights to or in the Software are held by Nulab. The User also accepts and confirms that Nulab has not transferred or assigned the ownership right, the intellectual property rights such as copyright, and any other rights to or in the Software, entirely or partially to the User by virtue of the Terms or under the license contract to use the Software.

Section 9 (Prohibitions)

Unless otherwise provided elsewhere in the Terms, the User is prohibited from conducting the acts described in the following items, in terms of the Software.

- a. To transfer, assign, lend, sub-license to use or in any other manner dispose of, the copy, duplication or medium of the Software (except for those approved by Nulab), to a third party.
- b. To alter, combine, reverse-engineer (reverse assembling etc.) or analyse the Software, except for the case where it is legally permitted without obtaining a consent of Nulab to the extent the law permits.
- c. To allow an account to be used by more than one person.
- d. To use Licence Authentication Key defined in Section 4 for more than one server for any purpose other than backup or redundancy.

Section 10 (Limited Warranty)

1. The User shall at its own responsibility choose and decide the benefit of the Software. Except as provided in this Section, Nulab will not be responsible or liable for any warranty, express or implied, including any implied warranty of merchantability and fitness for a particular purpose.
2. Nulab will not be responsible or liable for consequential, indirect, or incidental damages, and will not be responsible or liable for damages for lost profit, loss or damage caused by special reasons, loss or damage to any software, data or hardware etc. other than the Software, which might be sustained by the User in relation to the Software. Should Nulab be responsible or liable to pay damages to the User, the maximum amount of damages shall be the license fee for one (1) year under the use license contract made with the User.
3. If there is any inconvenience occurred to the User or any conflict between the User and a third party, when using the Software, the User shall resolve them at the User's own responsibility and costs, and Nulab will not be in any way responsible or liable for them.

Section 11 (Support Service)

1. Nulab will provide the support services decided by Nulab and described as follows, in the manner prescribed by Nulab for a period (hereinafter referred to as "Support Period") that is separately decided by Nulab, which will start on the starting date of the using period. The Support Period shall be decided for each use license contract for the Software between the User and Nulab.
 - a. To deal with defects and to provide the upgraded versions including enhancing functions
 - b. To provide supports by E-mails (to answer the inquiries regarding operations)
2. Where the User buys the support license that is separately offered by Nulab, the Support Period will be extended for the length that Nulab separately decides.
3. Nulab will provide the support services related to how to use or technical issues only for the latest MINOR version and the previous MINOR version.

Section 12 (User Information)

1. The User shall provide Nulab with the User information requested by Nulab at the time when the User applies for the use of the Software. The User shall further provide Nulab with the User information in the manner prescribed by Nulab immediately when Nulab requests it.
2. If any change occurs to the User information that has been provided by the User to Nulab, the User shall immediately inform Nulab of such change in the manner prescribed by Nulab.
3. If the User fails to inform under the preceding Paragraph (including the cases where the User is late to inform or gives inaccurate information); if any contact, notice or request etc. that Nulab is required to make, has not reached or has been late to reach to the User; and if the User sustains loss or damage, Nulab will not in any way be responsible or liable for it.

Section 13 (Suspension to use)

If Nulab finds that the User has acted in a manner described in any one of the following items, Nulab may suspend the User from using the Software. Nulab will not be liable for any loss or damage sustained by the User because of the suspension.

- a. The User gave false or incorrect information at the time of the use application for the Software.
- b. The User disclosed, transferred or assigned, or lent the License Authentication Key to a third party.

- c. The User fails to pay the license fee by the date provided by the Terms.
- d. The User conducted the prohibited acts provided in Section 9.
- e. The User is in breach of other obligations provided in the Terms.

Section 14 (Term of the User License Contract)

1. The license contract to use the Software between the User and Nulab shall be effective until the expiration date of the using period, or the end of the use license contract by termination or for other reasons.
2. When the license contract to use the Software between the User and Nulab ends, the User may not use the Software that the User has been licensed to use, and the User shall immediately delete or destroy the Software, its duplication and its recording medium.

Section 15 (Termination of the use license contract)

If Nulab decides that the User has acted in any one of the manners described in Section 13, Nulab may terminate entirely or partially the license contract to use the Software and any other contracts that are made between the User and Nulab (even if they are not breached), without giving any affirmation of termination.

Section 16 (Rules to use API)

1. The User may use the API of the Software(hereinafter referred to as “API”) by receiving the API key issued through the Setup page of the Software.
2. The User shall use the API only for the purpose of development or provision of applications, services, etc. which are not identical to services provided by Nulab(hereinafter referred to as “Applications”).
3. Intellectual property rights to the API (which include copyrights, patent rights, trademarks and all other property rights) belong to Nulab, and the Users shall not be entitled to obtain any of such rights except otherwise provided in this Terms. Also, the Users may not transfer to a third party any intellectual or other rights related to the API.
4. The Applications provided by the Users using the API are created and managed by the Users who shall have full responsibility to the Applications. In no event shall Nulab be responsible or liable for any damage or loss incurred to the Users or a third party by the use of the Applications. The Users shall clearly define the scope of responsibility of the Users and users of the Applications in an easy-to-understand manner so that users of the Application will not be significantly disadvantaged in case of any foreseeable disputes, etc. between the Users and users of the Application.
5. The User shall not create Applications containing any of the following:
 - a. Content violating laws, regulations or other social norms, or API Terms of Use, etc.;
 - b. Content infringing upon intellectual property and other rights of Nulab or third parties;
 - c. Content involving criminal activities, discriminatory expressions or other content offensive to the public order;
 - d. Content not suitable for viewing by the general public including younger audiences;
 - e. Content indicating or implying a partnership with Nulab;
 - f. Other content deemed inappropriate by Nulab;

Section 17 (Confidentiality)

1. Neither the User nor Nulab shall disclose or divulge, to a third party without obtaining the disclosing party’s prior written consent, such technical, business or other business related information as has been disclosed by the disclosing party after expressly telling

its confidentiality in advance, or giving a written notice telling its confidentiality within fourteen (14) days after the disclosure. The disclosed party shall use such confidential information only to perform the license contract to use the Software, but shall not use for any other purposes. However, the disclosed party may, where it is reasonably necessary to disclose such confidential information to the officers or those people who owe confidentiality obligation under laws and regulations such as attorney at law, accountant or tax accountant of the disclosed party or its affiliate companies, disclose to them such confidential information to the minimum extent at the responsibility of the disclosed party.

2. The provision in the preceding Paragraph shall not be applicable to the information that is one of those in the following items.
 - a. Information that is already held by the disclosed party at the time of disclosure
 - b. Information that is already in the public domain at the time of disclosure
 - c. Information that has become known in the public domain without the disclosed party's fault
 - d. Information that is obtained from a third party who has a valid authority to disclose
 - e. Information that has been developed/ obtained independently of the information disclosed by the disclosing party
3. The provisions of this Section shall survive for three (3) years after the end of the license contract to use the Software.

Section 18 (User Information Management)

1. Whether or not the User gives a notice telling confidentiality in the preceding section, Nulab keeps User's personal information pursuant to Section 12 with the care of a good custodian, and will not use it other than for the following purposes:
 - a. To confirm User's identity;
 - b. To respond to User's questions, provide related customer services and charge a license fee;
 - c. To manage and retain User's personal information;
 - d. To investigate internal business, or to develop and improve products;
 - e. To inform Users of changes to Terms, Nulab's Site and other services;
 - f. To design safeguard for the information Nulab retain, or to monitor it ;
2. Nulab may share User's personal information with the parties set out below:
 - a. Affiliates, or other members of Nulab group;
 - b. Nulab's professional advisors such as auditors, accountants and lawyers, etc.;
 - c. Companies that provide services to help Nulab with Nulab's business activities, such as data storage, maintenance services, database management, web analytics and payment processing;
 - d. Third parties to whom Nulab may choose to sell, transfer, or merge parts of Nulab's business or Nulab's assets. Alternatively, Nulab may seek to acquire other businesses or merge with them.
3. Notwithstanding the provisions of the preceding paragraph, Nulab may provide User's information to a government or a court within the necessary minimum range, in cases where disclosure is requested by law, ordinance, decision, order, government office, etc. and Nulab deems it necessary in order to defend the rights of Nulab and to protect the safety of Users or a third party.

Section 19 (Anti-Social Forces)

1. The User and Nulab hereby represent and assure to each other:
 - (1) that the party is a person/entity who is not a violent association or a member of a violent association; who has not been a member of a violent association since five (5)

years before; or who is not an equivalent body to a violent association or an entity associated with a violent association/s, a corporate racketeer, a rogue under cover of a social activist, a white collar association who is in fact a core body of criminal associations using threats or violence or financial connection with, anti-social associations, or its equivalent association (hereinafter collectively referred to as “Anti-Social Forces”).

- (2) that the party fall under all of the following;
 - a. The party does not and will not have any relationship in which its management is deemed to be controlled by Anti-Social Forces;
 - b. The party does not and will not have a relationship in which an Anti-Social Force is effectively involved with its management;
 - c. The party does not and will not have a relationship in which it makes inappropriate use of an Anti-Social Force with the intention of making an illicit profit for itself, its company or a third party or causing damage to a third party, etc.;
 - d. The party does not and will not have in the future a relationship in which it cooperates or is involved with the maintenance or operation of an Anti-Social Force by providing funding, etc. or convenience; or
- (3) An officer or person effectively involved in management does not and will not have a socially condemnable relationship with the Anti-Social Forces, in which the party uses the Anti-Social Forces for the purpose of illegal/ fraudulent /corruptive interest of the party’s own or a third party, or of inflicting damage to a third party; or in which the party provides with funds or accommodates the Anti-Social Forces so as to sustain the Anti-Social Forces, or cooperate or be involved with the Anti-Social Forces in its operations.
- (4) that the party does not and will not make demands, on its own or via a third party, beyond legal liability in terms of the Services in violent manner or unlawful manner; and in terms of transactions in the manner of threatening acts and/or words, using violent forces, spreading false information, interfering the other party with its business by fraudulent means or threatening forces, or harming the other party’s good reputation.
2. If either the User or Nulab is in breach of the representation and assurance in the preceding Paragraph 1, the aggrieved party may terminate the entire or part of the license contract to use the Software and any other contract with the User without providing any affirmation of termination. In such event, the terminated party may not make any claim in whatsoever nature for loss or damage caused by the termination against the terminating party.
3. If the User is in breach of the representation and assurance in Paragraph 1, Nulab may suspend the User from use of any services in the future that Nulab may provide, and may deregister the account of the User, besides the termination under the preceding Paragraph. In the event of suspension and deregistration, provisions in the preceding Paragraph shall be mutatis mutandis applicable.

Section 20 (Amendment)

1. The Terms may be amended by Nulab any time based on Japanese Civil Law, Article 548(bis).
2. When Nulab amends the Terms under the preceding paragraph, Nulab shall notify the User in advance of the amendment of the Terms, the Terms after the amendment and the date of such amendment taking effect, by sending an email, posting on the Website, or by using other appropriate methods.

Section 21 (No Assignment)

The User may not, without prior written approval by Nulab, assign the status under the Term or the license contract to use the Software, or the entire or partial rights and

obligations under the license contract to use the Software, to a third party.

Section 22 (Language)

The Term is prepared in both Japanese language and English language. If there is any discrepancy or difference between the two texts in the two languages, the text in Japanese language shall prevail.

Section 23 (Severability)

Where any part of the Terms is decided to be invalid, the other parts of the Terms shall remain valid.

Section 24 (Governing Law)

The Terms shall be governed by laws of Japan and shall be interpreted and construed according to the laws of Japan.

Section 25 (Jurisdiction)

The Tokyo District Court shall have the exclusive jurisdiction for the first instance for any dispute arising out of or in relation to the Terms.

end

Updates:

Version 1 June 4th 2007

Version 2 February 20th 2018

Version 3 September 14th 2020

Version 4 November 6th 2020