

EARLY ACCESS TERMS AND CONDITIONS

These terms and conditions, as well as those in the attached Prototype Description (collectively, the “Terms”) apply to any access or use by you or your organization (“you”, “your”) of the Carbyne software or cloud service prototype and documentation identified in the attached Prototype Description (collectively, “Prototype”). “Carbyne”, “us”, “we” and “our” refer to Carbyne, Inc. (if you are in the Americas) and Carbyne Ltd. (if you are elsewhere). BY ACCESSING OR USING THE PROTOTYPE IN ANY WAY, YOU ARE INDICATING THAT YOU ACCEPT AND AGREE WITH THESE TERMS AND THAT YOU ARE AUTHORIZED TO DO SO ON BEHALF OF YOUR ORGANIZATION.

1. **Testing.** By accessing or otherwise using the Prototype, you agree to use and test the Prototype as set forth in these Terms only. You agree to start testing the Prototype promptly after we make it available to you and to install any updates thereto. If you and we have agreed to perform specific testing activities in addition to those in these Terms, such activities will be set out in writing between you and us.

2. **Prototype License or Access.** We grant you a revocable, limited, non-exclusive, non-transferable, personal license to install and use a single instance of the Prototype in object code only and at the original delivery location for testing and evaluation purposes only. If the Prototype is a cloud service (a “Service”), we grant you access to the Service for 30 days. You agree that you shall not: (a) use the Prototype for any production use or to obtain any commercial benefit from the Prototype; (b) reproduce, modify, translate or create any derivative work of, or sell, sublicense, rent, lease, distribute or otherwise transfer all or any portion of the Prototype, (c) reverse engineer, decompile, use for competitive analysis, reverse assemble or otherwise attempt to gain access to the source code of all or any portion of the Prototype, (d) display or disclose the Prototype to any person other than your employees or contractors who you have authorized to access the Prototype in accordance with these Terms; (e) use the Prototype for third-party training, time-sharing or service bureau use, or use any part of the Prototype, including third party software, independently from the Prototype as a whole; (f) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices placed or embedded on or in the Prototype; or (g) otherwise use the Prototype except as expressly allowed under these Terms. Except for the license or access and use rights granted this Section 2, we and our licensors retain all right, title and interest in and to the Prototype and any additions or modifications thereto.

3. **Data & Feedback.** You agree to provide data and feedback to us for and about the Prototype, including perceived strengths and weaknesses, areas for improvement and the reporting of bugs. We may use the data and feedback you provide (a) to improve accuracy, quality and/or to advance features; and/or (b) for research and development, including to improve the products and services we offer and to develop new products and services. No data that identifies you or individuals will be made available publicly by us and any use of personal data remains subject to our Privacy Policy (which can currently be found at <https://carbyne.com/privacy-policy/>). You irrevocably waive any intellectual property rights in any improvements or developments that we may make based on your feedback, use of the Prototype and/or data and you grant us a perpetual and irrevocable, royalty-free, worldwide license to the same. You accept full responsibility for any data or materials which you use with the Prototype, and you must ensure that your use will not infringe any third party intellectual property rights or other rights.

4. **Confidentiality.** Each party may use the other party’s Confidential

Information solely for the purposes of the activities contemplated in these Terms. The receiving party shall use all commercially reasonable measures to prevent the unauthorized disclosure of Confidential Information and shall assist the disclosing party in remedying any such disclosure. “Confidential Information” means any non-public information that the disclosing party identifies in writing prior to disclosure as confidential or that a reasonable person should recognize to be confidential. The Prototype, feature descriptions and other documents we provide under these Terms are our Confidential Information. Confidential Information does not include information that: (i) the receiving party can prove it already knows at the time of disclosure; (ii) becomes publicly known through no fault of the receiving party; (iii) the receiving party receives from a third party without restriction on disclosure; (iv) the disclosing party approves for release by written consent; or (v) is required to be disclosed by law. Neither party will disclose the terms or existence of these Terms or our Prototype program unless otherwise agreed in writing.

5. **Cloud Service Use and Data.** If the Prototype is a Service, you may permit your employees, consultants, agents, and contractors to access and use the Service in accordance with these Early Access Terms (“Authorized Users”), provided you are responsible for: (i) specifying the level of access to the Service for each Authorized User, (ii) ensuring all Authorized Users use the Service only in support of your testing, (iii) any unauthorized use of the Service or any breach of these Early Access Terms by an Authorized User, including any misuse of authentication credentials associated with your access and use of the Service (“Credentials”). You are responsible for maintaining the confidentiality of Credentials, including those used by any Authorized Users. You will promptly notify us of any confirmed or suspected misuse of the Service or Credentials, or of any security incident related to the Services. You are also solely responsible for the content of all data you process using the Service (“User Data”). You accept full responsibility for any User Data which you transmit or provide to us or store on the Service. When you use the Service, you must ensure that your use will not infringe any third party intellectual property rights or other rights (for example, copyrights, trademarks, patents, trade secrets, or confidentiality); this includes without limitation

ensuring that you have the right to use any materials that you submit for use by the Service. We do not and will not assume any obligations with respect to User Data or your use of the Service. We recommend you use data that is anonymized, pseudonymized, or “dummy data”, where it is not feasible for us to reasonably re-identify any individuals from such data. If User Data contains personal data, you shall comply with necessary legal requirements under applicable data privacy laws to enable lawful transfer of personal data to us.

6. **Competitive Developments.** You will not use the Prototype, or any information derived from it, to develop, or aid a third party to develop, competing technology.

7. Term and Termination. The license or access granted above will automatically end thirty days after we first deliver any part of the Prototype to you, unless we agree to extend it in writing, or these Terms are terminated sooner as described below. Either party may terminate these Terms at any time and for any reason upon written notice. When the license or access or these Terms terminate, you will: (a) cease use of the Prototype and Confidential Information; (b) return or destroy, at our option, each physical component of the Prototype and Confidential Information and all copies thereof to us; and (c) certify such return or destruction in writing to us upon request. Terms herein that by their nature are intended to survive termination shall continue after termination.

8. No Warranty. WE PROVIDE THE PROTOTYPE "AS IS" AND "AS AVAILABLE," AND WE DISCLAIM, FOR US AND ON BEHALF OF OUR LICENSORS, ALL WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT THE PROTOTYPE IS EXPERIMENTAL AND AGREE THAT THIS DISCLAIMER IS AN ESSENTIAL ELEMENT OF THESE TERMS. You agree that the Prototype may have defects or deficiencies that we may not correct, and that we are under no obligation to release the Prototype for general commercial availability. The Prototype is at an early stage of development and may change in subsequent versions. You assume the entire risk as to the quality and performance of the Prototype and have the sole responsibility for the adequate protection and backup of your data and/or equipment used with the Prototype.

9. Limit of Liability. YOU AGREE THAT IN NO EVENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY, SHALL WE OR OUR LICENSORS HAVE MORE THAN ONE THOUSAND DOLLARS (\$1000) LIABILITY WITH RESPECT TO THIS AGREEMENT OR THE PROTOTYPE. THIS LIMITATION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

10. Consequential Damages. NEITHER YOU NOR WE SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND RELATING TO THESE TERMS OR THE PROTOTYPE, INCLUDING BUT NOT LIMITED TO LOST DATA, PROPERTY DAMAGE OR INABILITY TO USE THE PROTOTYPE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

11. General. You and we are independent contractors. You shall not assign or transfer these terms or any part hereof without our prior written consent, and any attempt to do so shall be void. For the purposes of the activities contemplated in these Terms, we may use personnel, resources and service providers in various countries. All notices hereunder shall be in writing and shall be deemed delivered upon demonstrated delivery to the applicable address you and we agree to provide to each other prior to commencement of your use of the Prototype. These Terms shall be governed by the laws of the State of New York, U.S.A. without regard to its conflict of laws principles, and the parties hereby submit to the jurisdiction of state and federal courts therein (if you are in the Americas) or by the laws of Israel, and the parties hereby submit to the jurisdiction of the courts of Israel (if you are located outside the Americas). You shall adhere to all applicable export laws and regulations including the U.S. Export Administration Laws and Regulation regarding the export or re-export of any technical data or products received from us. In the event of any threatened or actual breach of any provision of these Terms, either party may be entitled to an injunction or other equitable remedies, in addition to any and all remedies available at law. These Terms and any separate, mutually agreed description of testing activities constitute the entire agreement between the parties with respect to the subject matter hereof, and these Terms supersede any prior or collateral agreements. These Terms may not be amended, and no waiver shall be effective, except by a writing signed by both parties. If a court or similar authority determines any provision of these Terms to be unenforceable or invalid, such determination shall not affect the remaining provisions or these Terms as a whole.