

END USER LICENSE AGREEMENT FOR VSPACE MANAGEMENT CENTER

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1. OVERVIEW

The terms and conditions set forth in this EULA apply to the NComputing® vSpace® Management Center software (the “**Management Software**”). This EULA supersedes all other licensing terms for the Management Software. Updates to the Management Software provided by NComputing through Internet-based services or other means are also subject to this EULA, unless other terms accompanying those updates explicitly supersede or amend this EULA.

Installing and using the Management Software does not enable you to manage Client Devices (as defined below) without purchase of Management Center License Keys (as defined below) as further described herein.

2. DEFINITIONS.

For the purposes of this EULA, The following terms shall have the following meanings:

- a. “**Client Device**” means an NComputing client device that is managed by the Management Software.
- b. “**Licensed Server**” means a physical or virtual machine on which the Management Software is installed for the management of one or more Client Devices.
- c. “**Management Center License Key**” means a license key that you must purchase from NComputing or one of its authorized resellers and install via a key code on the Licensed Server. Such Management Center License Key enables the Management Software installed on the Licensed Server to manage Client Devices that have established management connections to the Management Software over one or more networks.

- d. **“Open Source Software”** means any software or software component, module or package that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software or similar licensing or distribution models, including, without limitation, software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: (a) GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); (b) the Artistic License (e.g., PERL); (c) the Mozilla Public License; (d) the BSD License; and (e) the Apache License.
- e. **“You”** or **“you”** means the company, entity or individual who enters into this EULA and has rightfully acquired the Management Software and the accompanying Management Center License Key(s).

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- make more copies of the Management Software or Management Center License Keys than expressly permitted in this EULA;
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6. REINSTALLATION OR TRANSFER OF MANAGEMENT CENTER LICENSE KEY(S). You may reassign the Management Center License Key(s) from one Licensed Server to an upgraded or repaired version of the same Licensed Server (e.g. in the event of an operating system re-installation), or to a new Licensed Server provided that you first uninstall and delete the Management Software and Management Center License Key(s) from the original Licensed Server. In either case, if your total number of installed instances for a Management Center License Key has exceeded five (5), then you must first contact NComputing Technical Support to enable re-use of that Management Center License Key. You may then install the Management Software and the Management Center License Key(s) on the upgraded or new Licensed Server and then activate the Management Center License Key(s) via the key codes provided to you by NComputing during registration process. You may reassign a Management Server License Key in this manner no more than five (5) times after the initial five (5) installation instances for that Management Server License Key have been used.

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8. REGISTRATION AND VALIDATION.

- a. NComputing requires that each Management Center License Key be registered and validated online. Validation of your Management Center License Key in the manner described during its installation and setup with the applicable key code is required in order for the Management Software to manage Client Devices. Validation verifies that the Management Center License Keys have been activated and are properly licensed, and is necessary to use certain features of the Management Software.
- b. The Management Software and Management Center License Keys may, from time to time, also require re-validation in order to confirm that such Management Center License Keys are still properly licensed.

- c. During the registration and validation processes, the Management Software will send information relating to the Management Software, Management Center License Key(s), Client Devices, and Licensed Server(s) to NComputing. This information includes, but is not limited to, the version and key code of the Management Center License Keys, the Internet protocol address of the Licensed Server(s), and other information provided by the end user of the Management Software.
- d. If, during the validation process, the Management Software and/or Management Center License Key(s) are found not to be properly licensed or registered, the functionality of the Management Software may be affected. For example, you may
 - need to reactivate the Management Center License Key(s), or
 - receive reminders to obtain and activate proper and valid Management Center License Keys;and you may not be able to
 - use or continue to use some or all of the features of the Management Software, or
 - obtain certain updates to the Management Software from NComputing.

9. UPDATE SERVICES. NComputing may make use of Internet-based services in the Management Software (the “**Update Services**”) to deliver to you Updates (as defined below) and/or notifications in connection with the Management Software. NComputing reserves the right to change its method of delivering the Update Services at any time. You must not interfere in any way with the Update Services. NComputing shall not be responsible for any errors in the Management Software or the Management Center License Keys that would have been fixed by Updates to the Management Software that NComputing attempted to provide but that were not applied because of interference with the Update Services.

- a. From time to time, NComputing may, at its own discretion, create updates and/or patches (hereinafter collectively referred to as “**Updates**”) to the Management Software. Updates may include support for and compatibility with operating system updates or service packs, bug fixes, and incremental improvements. Updates do NOT include major upgrades to the Management Software, which may contain major feature additions, support for previously unsupported operating systems, or support for new hardware products; such major upgrades constitute new software for which NComputing may charge additional fees and which may or may not be made available via the Update Services.
- b. If available, you may obtain Updates at no additional charge within one (1) year after the date of your purchase of the applicable Management Center License Key(s), provided that you have properly registered such Management Center License Key(s).
- c. After one year from the date of your purchase, NComputing may make further updates available to you for an additional fee per its Support and Subscription (SnS Terms and Conditions).
- d. You may obtain Updates only from NComputing or its authorized sources.
- e. The Management Software is designed to be compatible with currently supported operating systems and server hardware. Notwithstanding the foregoing, NComputing does not warrant

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- 16. GOVERNMENT RIGHTS.** The Management Software and any other NComputing software covered under this EULA are “commercial items” as that term is defined at 48 C.F.R. 2.101; consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Management Software and any other NComputing software and documentation covered under this EULA with only those rights set forth herein.
- 17. JURISDICTION AND DISPUTES.** This EULA will be governed by the laws of the State of California, without regard to its conflicts of law provisions. The 1980 U.N. Convention on Contracts for the International Sale of Goods shall not apply to this EULA. All disputes hereunder shall be resolved in the courts subject to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California. The parties hereto consent to the jurisdiction of such courts, agree to accept service of process by mail, and waive any jurisdictional or venue defenses otherwise available.
- 18. ASSIGNMENT.** You may not transfer, assign or delegate any of your rights or obligations under this EULA, in whole or in part, whether voluntarily, by operation of law, by merger or sale of all or substantially all of your stock or assets, or otherwise, without the prior written consent of NComputing. Any purported transfer, assignment, or delegation by You without such prior written consent shall be null and void. NComputing has the right to transfer, assign or delegate any of its rights or obligations under this EULA to one or more third parties without Your consent, including through reorganization, reincorporation, merger, change of control, or a sale of all or substantially all of NComputing’s stocks or assets. Subject to the foregoing, this EULA shall bind and inure to the benefit of each party’s successors and permitted assigns.
- 19. NO WAIVER.** Any waiver of any right or remedy by NComputing is not valid and effective, unless, and to the extent that it is express and in writing that states such right and remedy to be waived. Selection by NComputing of a specific remedy does not constitute, and shall not be interpreted to

constitute, a waiver of any other remedy of NComputing, and NComputing's failure to select a specific remedy does not constitute, and shall not be interpreted to constitute, a waiver of such remedy.

20. SEVERABILITY. Should any section, or portion thereof, of this EULA be held invalid by reason of any law existing now or in the future in any jurisdiction by any court of competent authority or by a legally enforceable directive of any governmental body, such section or portion thereof shall be validly reformed so as to approximate the intent of the parties as nearly as possible and, if unreformable, shall be deemed divisible and deleted with respect to such jurisdiction; this EULA shall not otherwise be affected.

21. INTEGRATION. This EULA constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements, oral or written, between the parties, and is intended as a final expression of their agreement, regarding the subject matter of this EULA other than any document expressly incorporated herein by reference. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this EULA.

YOU HEREBY ACKNOWLEDGE THAT YOU HAVE READ THIS EULA, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.