



## Subscription Agreement

This MariaDB Subscription Agreement (“**Agreement**”) is entered into by and between the MariaDB legal entity identified on the applicable Order Form (“**MariaDB**”) and the customer identified on the same Order Form (“**Customer**”) as of the date the Order Form is last signed by MariaDB and Customer, or the date that Customer accepts the terms and conditions herein (“**Effective Date**”), and sets forth the terms and conditions pursuant to which MariaDB provides Products and Services to Customer.

### 1. Definitions

- 1.1. “**Core**” means a single processing unit within a processor that can independently execute instructions.
- 1.2. “**Customer Support Data**” means electronic data, information and materials that the Customer’s designated technical contacts (DTC) submit to the Customer Support Portal. DTC means an employee, contractor or subcontractor of the Customer who was designated to MariaDB as a Customer’s technical contact. The Customer is responsible for the DTC’s acts and omissions as if they were its own.
- 1.3. “**Customer Support Portal**” means a part of the Website for the Customers at support.mariadb.com.
- 1.4. “**Order Form**” means: (a) an order form or a statement of work signed by the Customer and accepted by MariaDB or signed by both parties; or (b) an order or a request for Products and Services submitted by the Customer to MariaDB and accepted by MariaDB.
- 1.5. “**Platform**” means a set of Products including MariaDB Enterprise Server, MariaDB MaxScale, MariaDB Connectors and other Software as further described on the Website and in the Order Form. In case of conflict, the description in the Order Form prevails.
- 1.6. “**Server**” and “**Instance**” means a single software daemon running on either a physical machine, a virtual machine or in a software container.
- 1.7. “**Services**” means Subscription Services, Professional Services, consulting, training or other services specified in an Order Form. Unless specified otherwise, the Services and line items in an Order Form mean Subscription Services.
- 1.8. “**Software**” and “**Product**” means a software product including its documentation, software updates and newer versions made available to the Customer by MariaDB.
- 1.9. “**Subscription Policy**” means the MariaDB subscription services policy set forth on the Website at <https://mariadb.com/subscription-services-policies/>, as modified by MariaDB from time to time.
- 1.10. “**Subscription Services**” means technical support and maintenance services set forth in the Subscription Policy.
- 1.11. “**vCPU**” means virtual central processing unit, a unit of compute capacity assigned to a virtual machine (VM).
- 1.12. “**Website**” means a MariaDB website at mariadb.com and at its subdomains, e.g. docs.mariadb.com, legal.mariadb.com, support.mariadb.com.
- 1.13. “**Work Product**” means any result of Services, or the findings, analyses, programs, tools, applications, interfaces, enhancements, software, works, and other technical information, created by MariaDB at the request of the Customer, e.g. as a result of MariaDB providing professional services.

### 2. Scope

- 2.1. **Scope of Services.** Subject to this Agreement, MariaDB provides Products and Services to the Customer and the Customer agrees to use the same solely for the Customer’s own internal business purposes. The Customer further agrees that all Servers, Cores and vCPUs used with the Software must be licensed and covered by the Subscription Services under this Agreement, and this requirement applies to production, test, development, disaster recovery and other environments as used by the Customer.
- 2.2. **Limitations.** MariaDB does not guarantee that any bug fix to the Software will be accepted into future versions of the Software. In the event a bug fix is not accepted, the Customer may (i) purchase Services for custom

builds of the Software (to the extent accepted by MariaDB) for an additional fee, or (ii) upgrade to a Product or Service that includes the bug fix, if any.

2.3. **Restrictions.** The Customer will not remove, alter or obscure any proprietary notices in Products and Services including copyright notices, or permit any third party to do so. The Customer will not decrease the number of licensed Products and (or) the number (scope) of purchased Services during the Term. The Customer will not allow its affiliates or any third parties to use Products or Services or derive any benefit from such use. If the Customer requires its affiliates or a third party to use some or all Products or Services, the parties may agree on such extended use cases in a separate Order Form.

2.4. **Professional Services.** MariaDB provides professional services according to a mutually agreed upon schedule and at mutually agreed upon location(s), or remotely and according to other details in an Order Form ("**Professional Services**"). Standard working hours are 8 hours per day. The Customer will cooperate with MariaDB in order to facilitate MariaDB's performance of professional services, in particular, the Customer will provide MariaDB with resources, personnel, materials and data that MariaDB may need or require to perform the professional services. If the professional services are to be carried out on the Customer's premises, the Customer will provide MariaDB with access to said premises. It is the Customer's sole responsibility to protect and keep an up-to-date recoverable backup of its database(s), files, and software. The professional services do not include Subscription Services. MariaDB may terminate the Order Form for professional services if the Customer has not arranged for the professional services to be carried out within one (1) year of the effective date of the Order Form through no fault of MariaDB, in which case any prepaid Fees are not reimbursed.

### 3. Term and Termination

3.1. **Term.** The term of this Agreement will begin on the Effective Date and will terminate at the expiration of sixty (60) days following written notice of termination given by one party to the other. Termination of this Agreement will not operate to terminate any Order Form and the terms and conditions of this Agreement will continue to the extent necessary to give validity to any Order Form in effect at the time of termination of this Agreement and until such time as the applicable Order Form expires or is terminated in accordance with this Section 3.1. The term of an Order Form begins on the effective date of the Order Form and continues for one (1) year thereafter unless another initial term is agreed in the Order Form ("**Initial Term**"). Thereafter, each Order Form automatically renews with regard to Subscription Services for successive one-year terms (each a "**Renewal Term**" and together with the Initial Term, the "**Term**"), unless either party provides written notice of non-renewal no less than sixty (60) days prior to the end of the then-current Term. If the Order Form is not renewed following the non-renewal notice by the Customer and the Customer subsequently seeks to resume Subscription Services no later than three (3) months ("**Grace Period**") from the end date of the most recent Term ("**Non-Renewal Date**"), the Customer will order Subscription Services to start from the Non-Renewal Date and pay then-current fees for a new Term from the Non-Renewal Date. During the Grace Period, MariaDB makes Subscription Services available to the Customer under the terms of this Agreement. If, however, the Customer seeks to resume Subscription Services after the Grace Period and within twelve (12) months from the Non-Renewal Date, then in addition to applicable Fees for a new Term, the Customer will pay then-current fees for three (3) months Subscription Services corresponding to the Grace Period.

3.2. **Termination.** Either party may terminate an Order Form in the event that the other party fails to cure a material breach thereof within thirty (30) days after receipt of written notice of such breach. In addition, MariaDB may terminate or suspend any Order Form or this Agreement upon written notice in the event that the Customer fails to timely pay any Fees or expenses due hereunder, or any Product provided by MariaDB to the Customer becomes, or is likely to become, the subject of a claim of intellectual property infringement or misappropriation. In addition, in the event either party becomes liquidated, dissolved, bankrupt or insolvent, whether voluntarily or involuntarily, or shall take any action to be so declared, the other party may terminate an Order Form immediately.

3.3. **Effect of Termination.** If this Agreement or an Order Form is terminated for any reason, Sections 1, 3.1, 3.3, 4, 5, 6.3, 7, 8 and 9 of this Agreement (as the same are incorporated into each Order Form) will survive such termination.

### 4. Fees and Payments

4.1. **Fees.** The Customer will pay to MariaDB the fees specified in the Order Form ("**Fees**") in the currency specified in an invoice, without set-off and in immediately available funds, no later than 30 days from the date of the invoice unless otherwise agreed in the Order Form. Unless otherwise specified in writing, the Fees do not

include expenses. Notwithstanding the above, the Customer pays MariaDB all actual and reasonable expenses incurred by MariaDB to provide professional services (e.g., lodging, transportation, meals, shipping expenses, etc.). Fees for the Initial Term and each Renewal Term, if any, are due on the date that such term commences. Fees for each Renewal Term will be set at MariaDB's then-current fees. All orders and Fees are non-refundable, non-cancelable and exclusive of indirect Taxes. The Customer agrees to pay MariaDB the applicable Fees for each Product, Service, Server, Core or vCPU as further specified in the Order Form. Failure to pay the Fees when due is a material breach of this Agreement.

4.2. **Late Payments.** Any late payments shall be subject to a service charge equal to 1.5% of the amount due (calculated on a monthly basis) or the maximum amount allowed by law, whichever is less.

4.3. **Taxes.** All Fees are exclusive of Taxes. The Customer will pay MariaDB an amount equal to any Taxes arising from or relating to this Agreement or an applicable Order Form which are paid by or are payable by MariaDB. "Taxes" means any form of sales, use, excise, import, export, value added or other form of taxation and any fines, penalties, surcharges or interest, but excluding any taxes based solely on the net income of MariaDB. If the Customer is required to withhold or deduct any portion of the payments due to MariaDB, the Customer will increase the sum payable to MariaDB by the amount necessary so that MariaDB receives an amount equal to the sum it would have received if the Customer had made no withholdings or deductions.

4.4. **Reporting.** The Customer will notify MariaDB promptly if the actual number of Servers, Cores or vCPUs used by the Customer exceeds the number of Servers, Cores or vCPUs for which the Customer has paid the applicable Fees. In such notice, the Customer will include the number of additional Servers, Cores or vCPUs and the date(s) on which such Servers, Cores or vCPUs were first used. MariaDB will invoice the Customer for Subscription Services for the applicable Servers, Cores or vCPUs, prorated over the then-current Term, and the Customer will pay for such Subscription Services no later than thirty (30) days from the date of MariaDB's invoice.

4.5. **Audit.** The Customer grants MariaDB and its independent accountants the right to audit the Customer's books and records relevant to the performance of this Agreement once annually during regular business hours upon fifteen (15) days advance written notice to verify compliance with this Agreement. If an audit shows any over-usage, the Customer will pay to MariaDB any additional fees upon notice to the Customer, including reasonable costs of conducting the audit. The Customer agrees to retain its books and records relevant to the number of Servers, Cores or vCPUs for at least two (2) years following termination or expiration of this Agreement and any and all Order Forms.

## 5. Proprietary Rights

5.1. **Licenses.** Upon payment of the respective Fees, MariaDB grants the Customer a limited, nonexclusive, nontransferable license to use the Work Product and the Software for the Customer's own internal business purposes. All Software provided to the Customer is subject to its respective software license terms associated with such Software as shown on the Website or presented at installation or use of the Software. For example, MariaDB Enterprise Server is subject to GNU General Public License, version 2 ("**GPL**") and MariaDB MaxScale is subject to MariaDB MaxScale License Terms set forth on the Website at <https://mariadb.com/terms/>. All Work Products that are bug fixes for and other modifications of the Software delivered or modified by MariaDB or its suppliers pursuant to the Services are subject to the license terms of the underlying Software ("**Software Modifications**"), and the Customer agrees to comply with such terms. For example, if the Software is made available under GPL, all respective Work Products in relation to such Software are subject to the same GPL.

5.2. **Title.** As between the parties, (1) MariaDB retains all right, title and interest in and to any software, tools, techniques, and other materials used or created in connection with this Agreement, including any suggestions, enhancement requests, recommendations, proposals, documents, or other feedback by the Customer to MariaDB ("**Feedback**"), the Software and Work Products; (2) the Customer retains all right, title and interest in and to the Customer Support Data and to any proprietary or third party software, products, documentation and other materials the Customer supplies to MariaDB in connection with this Agreement; and (3) Software Modifications are subject to the license terms of the underlying Software. The Customer agrees to strictly comply with MariaDB's trademark use and policies set forth on the Website at <https://mariadb.com/trademarks/>, and not use MariaDB's trademarks after expiration or termination of the Order Form(s). Unless agreed otherwise, the Customer consents to MariaDB's use of the Customer Support Data to perform this Agreement, improve the Products and the Subscription Services, create new products and services, and make suggestions to the Customer.

5.3. **Reservation of Rights.** All rights not expressly granted in this Agreement are reserved by MariaDB and no other licenses, immunity or rights, express or implied are granted by MariaDB, by implication, estoppel, or otherwise.

## 6. Representations; Warranties; Disclaimers.

6.1. **Customer.** The Customer represents and warrants to MariaDB that (a) the Customer has the full right and power to enter into and perform this Agreement without the consent of any third party, (b) neither the Customer's entry into this Agreement nor MariaDB's performance hereunder will conflict with any other obligation which the Customer may have to any other party, and (c) the Customer does not act as a service bureau, a service provider or utility model computing delivery vendor who serves external end users. The Customer will defend, indemnify and hold MariaDB and its affiliates, and their respective directors, officers, employees, agents, representatives and contractors, harmless from any third party claims and any related costs and expenses that arise from a violation of the foregoing.

6.2. **MariaDB.** MariaDB represents and warrants to the Customer that (a) MariaDB has the full right and power to enter into and perform this Agreement without the consent of any third party, (b) during the Term, MariaDB shall provide the Services in a professional and workmanlike manner and (c) MariaDB has the necessary experience, knowledge, skill and resources to provide professional services in a professional manner.

6.3. **DISCLAIMERS.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.2 AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, MARIADB MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER IN CONNECTION WITH THE SOFTWARE, SUBSCRIPTION SERVICES, OR OTHER SERVICES PROVIDED UNDER OR IN CONNECTION WITH THIS AGREEMENT, ALL OF WHICH ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. MARIADB EXPRESSLY DISCLAIMS, AND THE CUSTOMER EXPRESSLY WAIVES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, RELATED HERETO INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, SYSTEM INTEGRATION, AND ACCURACY OF INFORMATIONAL CONTENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MARIADB DOES NOT WARRANT RESULTS OR THAT ANY SOFTWARE, SERVICES OR WORK PRODUCT WILL BE FREE FROM ERRORS, DEFECTS OR BUGS. THE CUSTOMER ACKNOWLEDGES THAT IT IS THE CUSTOMER'S SOLE RESPONSIBILITY AT ALL TIMES TO PROTECT AND MAINTAIN AN UP-TO-DATE AND RESTORABLE BACKUP OF ANY AND ALL THE CUSTOMER DATA, DATABASES, FILES, UTILITIES, SOFTWARE AND OTHER SYSTEMS OF THE CUSTOMER.

6.4. **Limitations on Use.** The Products and Services are not designed or intended for use in a hazardous environment requiring fail-safe performance or operation, in which the failure of the Products or Services could lead to death, personal injury, property damage, or severe physical or environmental damage, including without limitation in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or medical devices. MariaDB will not be liable for any damages resulting from such use.

## 7. Limitation of Liability

7.1. NOTWITHSTANDING ANYTHING ELSE HEREIN OR OTHERWISE TO THE CONTRARY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER MARIADB NOR ITS AFFILIATES, LICENSORS, CONTRACTORS OR SUPPLIERS, SHALL BE LIABLE OR OBLIGATED WITH RESPECT TO THE SOFTWARE, SUBSCRIPTION SERVICES OR OTHER SERVICES UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY (A) FOR ANY AMOUNTS IN EXCESS OF THE AGGREGATE OF THE FEES PAID BY THE CUSTOMER PURSUANT TO THE ORDER FORM GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE TIME THE CLAIM AROSE (PER ORDER FORM AMOUNT CAP) AND FOR ANY AMOUNTS IN EXCESS OF US\$500,000, WHICH IS A FIXED AMOUNT CAP FOR ALL THE ORDER FORMS UNDER THIS AGREEMENT (PER AGREEMENT AMOUNT CAP); (B) FOR ANY COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY, SERVICES OR RIGHTS; (C) FOR ANY RELIANCE, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES; (D) FOR INTERRUPTION OF USE OR LOSS OR CORRUPTION OF DATA, LOSS OF PROFIT OR REVENUE, OR BUSINESS INTERRUPTION, OR OTHER LOSS ARISING FROM THE SOFTWARE, SUBSCRIPTION SERVICES OR OTHER SERVICES; OR (E) FOR ANY MATTER BEYOND ITS REASONABLE CONTROL. THE PARTIES AGREE THAT THIS SECTION 7 REPRESENTS A REASONABLE ALLOCATION OF RISK AND THAT MARIADB WOULD NOT PROCEED IN THE ABSENCE OF SUCH ALLOCATION.

## 8. Confidentiality

8.1. **Definition.** “**Confidential Information**” is any information disclosed by one party or its affiliate (“**Disclosing Party**”) to the other (“**Receiving Party**”) under this Agreement, and clearly marked as confidential or identified in writing to the Receiving Party as confidential at the time of disclosure, or information which, given the nature of the information and the circumstances surrounding disclosure, should reasonably be understood by the Receiving Party to be confidential.

8.2. **Obligations.** The Receiving Party shall: (a) not disclose the Confidential Information to any third party without the Disclosing Party’s prior consent except to employees, affiliates, contractors, agents, or professional advisors (“**Workers**”) who need to know it and who have a legal obligation to keep it confidential; and (b) use the Confidential Information only to perform this Agreement, and ensure that such Workers use the Confidential Information only to perform this Agreement while using the same degree of care as the Disclosing Party uses to protect its own Confidential Information of a similar nature, but not less than reasonable care. The provisions of this Section 8 shall survive for two (2) years after expiration or termination of the Agreement except for obligations to keep trade secrets and know-how confidential, which shall survive for the full period of their legal protection.

8.3. **Exclusions.** A Receiving Party shall have no obligation concerning information that: (a) is generally known to the public except as a result of acts by the Receiving Party; (b) is independently developed by the Receiving Party; (c) is disclosed to the Receiving Party by a third party with no duty of confidentiality to the Disclosing Party; or (d) is required to be disclosed by lawful process, provided that, to the extent legally permissible, the Receiving Party provides the Disclosing Party with timely notice to enable the Disclosing Party to seek a protective order or otherwise object.

8.4. **Ownership.** All Confidential Information shall remain the property of the Disclosing Party and shall be returned (or, at the Disclosing Party’s option, destroyed) within ten (10) business days upon written request; provided, however, the parties acknowledge that copies of the Confidential Information deleted from the Receiving Party’s systems may remain in a backup file until such system is overwritten. The Feedback and the Work Product are the Confidential Information of MariaDB. The negotiated terms of this Agreement are the Confidential Information of both parties.

8.5. **Equitable Remedies.** The parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized use or disclosure of the Confidential Information and that each party may, without waiving any other rights or remedies, seek injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction, without an obligation to post any bond.

## 9. Miscellaneous

9.1. **Interpretation.** Headings in this Agreement are for convenience only and do not affect its interpretation. If a court finds any part of this Agreement illegal or unenforceable, the rest of the Agreement remains valid. The invalid part will be deemed modified minimally to make it legal and enforceable. Termination is not an exclusive remedy and all other remedies remain available whether or not termination occurs.

9.2. **Assignment.** This Agreement applies to both parties, their successors, and any permitted assigns. MariaDB may assign this Agreement and some or all Order Forms without the Customer’s consent to a MariaDB affiliate or successor, or in connection with a merger, acquisition, asset sale, or corporate reorganization of all or substantially all of its assets or a majority of its voting stock. The Customer shall not assign this Agreement or any of its rights or obligations hereunder (whether by operation of law or otherwise) without the prior written consent of MariaDB. Any attempt by the Customer to assign this Agreement without MariaDB’s prior written consent shall be null and void. There are no intended third party beneficiaries of this Agreement.

9.3. **No Waiver; Limitations.** No failure or delay in exercising any right hereunder will operate as a waiver thereof, nor will any partial exercise of any right or power hereunder preclude further exercise. Except for the Customer’s obligations to pay the Fees and to the extent permitted by applicable law, no claim or action, regardless of form, arising out of this Agreement or an Order Form may be brought by either party more than one (1) year after the cause of action has accrued.

9.4. **Governing Law; Disputes.** This Agreement and any dispute relating to, or arising out of this Agreement or its formation or termination or actions or omissions contemplated by this Agreement, will be governed by and in accordance with the laws of California, without giving effect to the conflict of laws provisions. For all disputes arising out of this Agreement, the parties consent to the exclusive jurisdiction of the federal and state courts located

in Santa Clara County, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to, or govern, this Agreement.

9.5. **Attorneys' Fees; Collection Expenses.** For any enforcement or dispute arising between the parties relating to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees, collection expenses and costs incurred in such enforcement or dispute proceeding, including for any failure to pay the Fees hereunder.

9.6. **Consent and Notices.** Unless otherwise expressly indicated, any consent or authorization required under this Agreement shall be at the sole discretion of the party from whom such consent is required. Notice shall be deemed to have been received by a party, and shall be effective on the day received. All breach-related notices permitted or required under this Agreement shall be in writing and shall be delivered by recognized postal or courier services that provide delivery confirmation to the other party's address set forth on the Order Form, or such other address as the parties may subsequently provide in writing. All other notices may be sent by email with notice deemed given upon acknowledgment of receipt by a reply email. All notices to MariaDB shall be sent with a copy by email to legal@mariadb.com.

9.7. **Publicity.** No public communication concerning this Agreement and the relationship between the parties will be published or caused to be published by either party without the other party's prior written consent. Notwithstanding the foregoing, the Customer agrees that its company name and its logo may be mentioned in a list of customers of MariaDB on the Website, public filings, and other materials of MariaDB for potential customers, partners and investors.

9.8. **Legal Compliance.** Each party will comply with all laws and regulations that apply to them. MariaDB is not responsible for compliance with laws and regulations that apply to the Customer or the Customer's industry and that do not generally apply to MariaDB as a provider of Products and Services. The Customer acknowledges that Products and Services may be subject to export and import control laws and regulations of the United States, the European Union, and other countries (as applicable), and agrees to comply with all applicable export and import laws and regulations, and obligate, by contract or other similar assurances, the parties to whom the Customer re-exports or otherwise transfers the Products and Services to comply with all obligations under this Section. The Customer hereby certifies that it is not subject to sanctions or otherwise restricted from participating in export or re-export transactions.

9.9. **Independent Contractors.** The parties are independent contractors and this Agreement will not create any partnership, joint venture, agency, franchise, or employment relationship between the parties.

9.10. **Non-Solicitation.** During this Agreement and for six (6) months after its expiration or termination, the Customer will not directly or indirectly solicit, induce, recruit, hire, contract, encourage, or attempt to solicit, induce, recruit, hire, contract, or encourage any personnel of MariaDB to leave MariaDB; provided that the Customer may hire an individual who, without other solicitation, responds to a good faith advertisement or solicitation aimed at the general public. The Customer acknowledges that MariaDB personnel have vital skills and knowledge and losing them could significantly harm MariaDB. The Customer recognizes that a breach of this non-solicitation clause may result in irreparable injury to MariaDB for which monetary damages would be an inadequate remedy. Therefore, MariaDB shall be entitled to seek equitable relief, including injunctions and specific performance, in addition to any other remedies available at law or in equity. If the Customer hires or contracts, directly or indirectly, any personnel of MariaDB in violation of this section, MariaDB will be entitled, among others, to collect liquidated damages from the Customer for the breach to compensate for locating, recruiting, hiring and training a replacement person. MariaDB's liquidated damages will be a sum equal to two (2) times the Gross Annual Compensation of the relevant person the Customer wrongfully hired or engaged. The Gross Annual Compensation means twelve (12) times the relevant person's last full month's compensation from MariaDB including bonuses and benefits. The parties agree this amount is a reasonable, liquidated amount and not a penalty, and that this restriction is reasonable and necessary to protect the legitimate business interest of MariaDB.

9.11. **Force Majeure.** Except for obligations to pay the Fees, neither party is liable to the other for a failure in performance of this Agreement if the failure arises out of the unavailability of communications facilities or energy sources (including blackouts or brownouts), acts of God, acts of government, pandemic, epidemic, fires, earthquakes, quarantine, strikes, delays in transportation, shortages, riots, terrorism, war or other events outside a party's reasonable control and not caused by its fault or negligence.

9.12. **Entire Agreement.** Unless otherwise agreed in a separate written agreement signed by both parties, this Agreement, the Order Form(s), the Subscription Policy, and any attachments or exhibits hereto, comprise the entire agreement between the parties regarding the subject matter hereof and supersede and merge all prior and

contemporaneous proposals, understandings and all other agreements, whether oral or written. This Agreement may be amended or modified only in writing by an authorized officer of each party. This Agreement may be executed in counterparts, both of which taken together shall constitute one single Agreement. This Agreement may be incorporated by reference into an Order Form, executed via facsimile or electronic signature, and a facsimile copy or electronic version of either party's signature shall be deemed and be enforceable as an original thereof. The terms of any purchase order or other documents supplied to MariaDB will be null and void. MariaDB's acceptance of any such document shall not be construed as an acceptance of provisions which are in any way in conflict or inconsistent with, or in addition to, this Agreement, unless such terms are separately and specifically accepted in writing by an authorized officer of each party. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (a) the applicable Order Form; (b) this Agreement; and (c) the Subscription Policy.

**9.13. U.S. Government Entity.** This Section 9.13 applies only to a U.S. Government entity. Any software code provided hereunder is provided with RESTRICTED RIGHTS as customarily provided to the public as set forth in this Agreement. This commercial subscription and license is provided in accordance with FAR 2.101 (Definitions), FAR 12.211 (Technical Data) and FAR 12.212 (Software), and for Department of Defense transactions, in accordance with DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation), and in similar clauses in the NASA FAR Supplement. The Government's rights in any such code and any documentation, including its rights to use, modify, reproduce, release, perform, display or disclose such code or documentation, will be subject in all respects to the license rights and restrictions provided in this Agreement.

**9.14. Quebec Entity.** This Section 9.14 applies only to the Customer located in Quebec, Canada: The parties hereby confirm that they have requested that this Agreement be drafted in English. Les parties contractantes confirment qu'elles ont exigé que le présent contrat et tous les documents associés soient rédigés en anglais.

**9.15. Purchase from MariaDB Partner.** This Section 9.15 applies only to the Customer purchasing Products and Services from a third party authorized by MariaDB to resell Products and Services to the Customer ("Partner"). The Customer agrees that (a) this Agreement constitutes the End User License Agreement (EULA) and applies to the Customer's use of Products and Services, (b) the Customer orders Products and Services from the Partner under a contract between the Customer and the Partner, and (c) under the contract between the Customer and the Partner, the Partner acts on its own behalf as an independent reseller and not on behalf of MariaDB. Unless otherwise agreed between MariaDB and the Customer in writing, an expiration or termination of the partner agreement between MariaDB and the Partner will not operate to terminate any order placed by the Partner on MariaDB for the Customer and any such order shall continue in effect as though such order were placed by the Customer directly on MariaDB under this Agreement.