Subscription Agreement

This MariaDB Subscription Agreement ("**Agreement**") is between the MariaDB entity ("**MariaDB**") and the customer ("**Customer**") identified on the Order Form. This Agreement governs Products and Services provided to the Customer and is effective upon the earlier of Order Form execution or acceptance of this Agreement ("**Effective Date**").

1. Definitions

1.1. "**Access Credentials**" means license keys, access tokens, download tokens, or other credentials used to verify entitlements or authorize access to Products and Services.

1.2. "**Compute Unit**" means a unit of computation spread across one or more Cores or vCPUs in any combination, not exceeding 16 GB of RAM and a combined total of four (4) Cores or vCPUs, unless an Order Form specifies otherwise.

1.3. "**Core**" means a single-threaded processing unit of a processor capable of independent instruction execution; each hardware thread (e.g., with hyper-threading or SMT) counts as one Core.

1.4. "**Customer Data**" means all data, information, or material submitted by or on behalf of the Customer to MariaDB Cloud.

1.5. "**Customer Support Data**" means all data, information, or material submitted by or on behalf of the Customer to MariaDB in connection with requests for Support Services.

1.6. "**Customer Support Portal**" means MariaDB's customer support portal at support.mariadb.com.

1.7. "**Designated Technical Contact**" or "**DTC**" means a Customer-designated employee, contractor, or subcontractor identified in an Order Form or the Customer Support Portal and authorized to request Support Services from MariaDB for the Customer. The Customer is liable for all acts and omissions of its DTCs.

1.8. "**MariaDB Cloud**" means the cloud services provided by MariaDB that include the Support Services, hosted Products (including database-as-a-service), monitoring, and other related services and tools described in the Support Policy.

1.9. "**Marketplace**" means an authorized MariaDB marketplace reseller, e.g., the AWS Marketplace, the Microsoft Azure Marketplace, or the Google Cloud Marketplace.

1.10. "**Order Form**" means: (a) an order form or statement of work signed by the Customer and accepted by MariaDB, or signed by both parties; or (b) a Customer order for Products and Services accepted by MariaDB, including orders placed online via the Website or a Marketplace ("**Electronic Orders**"). Electronic Orders include the terms the Customer accepts when placing the order or when accessing the Customer Support Portal, but exclude any Partner (Section 9.15) terms. Accepting this Agreement online without placing an order is not an Order Form.

1.11. "**Platform**" means the set of Products comprising MariaDB Enterprise Server, MariaDB MaxScale, MariaDB GridGain, and any other Software that MariaDB includes in it, as specified in an Order Form or further described on the Website. The Order Form's description shall prevail in case of conflict. The quantity of a Platform in an Order Form is the total number of vCPUs, Cores, or Servers, as the Order Form specifies, that the Customer may use with the Platform's Products, other than Free Tools (as defined in the MariaDB Software License Terms), client libraries, and drivers (such as MariaDB Connectors).

1.12. "**Server**" and "**Instance**" mean a single software daemon running on a physical machine, virtual machine, or software container.

1.13. "**Services**" means Support Services, MariaDB Cloud, professional services, training, or other services specified in an Order Form. Unless an Order Form specifies otherwise, all its line items are deemed Support Services.

1.14. "**Software**" and "**Product**" mean any MariaDB software product made available to the Customer, including its documentation, updates, and new versions.

1.15. "**Support Policy**" means the MariaDB Support Policy at https://mariadb.com/support-policy/, as MariaDB may amend it, including its incorporated documents and any applicable service level agreement ("**SLA**") for specific Services.

1.16. "**Support Services**" means the technical support and maintenance services described in the Support Policy.

1.17. "**Usage Data**" means technical logs, telemetry, metadata, and other operational or performance information about the Customer's use of the Products and Services. It excludes Customer Data, Customer Support Data, and Access Credentials.

1.18. "**Usage Metrics**" means benchmarking results, statistical analyses, and other data that MariaDB anonymizes, de-identifies, or aggregates from Usage Data or Customer Support Data so it cannot reasonably identify the Customer or DTCs, or disclose Customer Support Data.

1.19. "**vCPU**" means a virtual single-threaded processing unit allocated to a virtual machine.

1.20. "**Website**" means mariadb.com and its subdomains, unless specified otherwise.

1.21. "**Work Product**" means all deliverables, software, and other works created by MariaDB for the Customer in performing professional services, excluding training courses and training materials unless an Order Form specifies otherwise.

2. Scope

2.1. **Scope of Services**. MariaDB provides Products and Services to the Customer, which the Customer will use only for its internal business purposes. All Servers, Instances, Cores, vCPUs, and Compute Units that the Customer uses with the Software must be licensed and subscribed to under this Agreement. This requirement applies to all environments (e.g., production, test, development, disaster recovery) regardless of how the Software was obtained.

2.2. **Limitations**. MariaDB does not guarantee that any bug fix will be incorporated into future Software versions. If a bug fix is not incorporated, the Customer may, for an additional Fee: (i) purchase Services for a custom Software build, if accepted by MariaDB; or (ii) upgrade to a Product or Service that includes the fix. For MariaDB GridGain deployments, in-memory data storage is limited to 4 GB of RAM for each Core/vCPU.

2.3. **Restrictions**. The Customer will not decrease the quantity of licensed Products or scope of purchased Services during the Term. Use of Products or Services by the Customer's affiliates or any third parties is prohibited, unless authorized in a separate Order Form.

2.4. **Delivery**. MariaDB does not physically deliver Products, Services, or Work Product. Delivery is deemed complete: for professional and training services, when MariaDB performs them and shares any Work Product; otherwise, when MariaDB first shares the Access Credentials with the Customer, makes Software available for download, or makes MariaDB Cloud available to the Customer, as applicable.

3. Term and Termination

3.1. **Term**. This Agreement starts on the Effective Date and continues until either party terminates it on sixty (60) days' written notice (which termination will not terminate any active Order Form). Each active Order Form remains governed by this Agreement until it expires or terminates. Each Order Form has the initial term it specifies, or one (1) year if none ("**Initial Term**"). Unless MariaDB specifies or the parties agree otherwise, the Order Form (including any added quantities or excess usage under Section 4.4) then renews automatically for successive one (1)-year periods ("**Renewal Terms**" and, with the Initial Term, the "**Term**"). Either party may give written notice of non-renewal at least sixty (60) days before the then-current Initial Term or Renewal Term ends. If the Customer resumes the Services under a non-renewed Order Form within three (3) months of the expiration date ("**Reinstatement Period**"), the Customer must pay for a new Term retroactive to that date at the then-current Fees, and the Services and licenses will continue under this Agreement without interruption. Until the Customer pays, MariaDB need not provide the Services and the Customer has no license to use the Software. If, with MariaDB's approval, the Customer resumes the Services after the Reinstatement Period but within twelve (12) months of the expiration date, it shall pay the then-current Fees for the new Term (starting on the date of resumption) plus the Fees for the full Reinstatement Period (or, if the Customer used the Software or Services after the Reinstatement Period, for the entire period since expiration).

3.2. **Termination**. Either party may terminate an Order Form if the other party fails to cure a material breach within thirty (30) days of receiving written notice of the breach. MariaDB may terminate or suspend any Order Form or this Agreement on written notice if: (a) the Customer fails to timely pay any Fees; (b) a Product becomes, or is likely to become, the subject of an intellectual property infringement claim; (c) the Customer's use of Services

does, or is likely to, disrupt or threaten the integrity, availability, or security of the Services; (d) there has been or may be a violation of third-party rights or applicable laws, a breach of security, fraud, or misrepresentation in connection with the Customer's use of the Services; or (e) Section 9.8 so permits. Any suspension under this Agreement does not extend the Term or excuse any payment obligation. Either party may terminate an Order Form immediately if the other party becomes the subject of any bankruptcy, insolvency, or liquidation proceeding.

3.3. **Effect of Termination**. Upon termination or expiration of this Agreement or any Order Form for any reason, (a) Sections 1, 3.1, 3.3, 4, 5, 6.1, 6.3, 6.4, 6.6, 7, 8, and 9 of this Agreement, Sections I.1, I.3, I.4.4, I.4.5, I.5.2, I.5.3, I.6.2, I.7, III(b), III(c), III(h), III(i), and IV(b) to IV(d) of Annex A, and any other provision intended by its nature to survive shall survive, including as incorporated into each Order Form; and (b) subject to Section I.5.3 of Annex A, the Customer shall cease using the Products and Services under each terminated or expired Order Form and, within ten (10) business days, remove them, including all Access Credentials and any MariaDB Cloud components in a BYOC (Section I.4.5 of Annex A), from all environments under its control and destroy all copies, except offline routine system backups, which it must not restore or use; on MariaDB's request, an officer of the Customer shall certify this in writing.

4. Fees and Payments

4.1. **Fees**. The Customer shall pay the fees specified in the Order Form or otherwise payable under this Agreement ("**Fees**") within thirty (30) days of the invoice date, unless the Order Form states otherwise. All payments are due in the currency specified on the invoice, without set-off, and in immediately available funds. Fees are exclusive of expenses. Fees for each Renewal Term will be charged at the rates MariaDB communicates to the Customer at any time before the Renewal Term starts (or, absent notice, at the greater of the prior Term's Fees or MariaDB's then-current list prices, disregarding any prior discounts). These Fees may be invoiced in full in advance, and are due on the later of the Renewal Term start date or thirty (30) days after the invoice date (unless the Order Form states otherwise). All orders and Fees are non-cancelable and non-refundable. Failure to pay Fees when due is a material breach of this Agreement.

4.2. **Late Payments**. Late payments shall incur a service charge of 1.5% per month on the outstanding amount, or the maximum rate permitted by law, whichever is less.

4.3. **Taxes**. Fees are exclusive of Taxes. The Customer will pay any Taxes that MariaDB is required to pay or collect arising from this Agreement. "**Taxes**" means any sales, use, excise, import, export, value-added, or other taxation and any fines, penalties, surcharges, or interest, excluding taxes based solely on MariaDB's net income. If any payment is subject to a withholding tax, the Customer shall increase the payment amount to ensure MariaDB receives the full invoiced sum.

4.4. **Reporting**. The Customer shall promptly notify MariaDB of any usage exceeding the quantity subscribed to under an Order Form, specifying the excess usage quantity and start date. Upon request, the Customer shall provide MariaDB a report of the Products, versions, and quantities used, including any excess usage and start dates, signed by an officer of the Customer certifying, after reasonable inquiry, that it is accurate. MariaDB will invoice such excess usage, prorated from its start date through the end of the then-current Initial Term or Renewal Term, at MariaDB's then-current standard list prices (disregarding any prior discounts), payable within thirty (30) days of the invoice date.

4.5. **Audit**. To verify compliance with this Agreement, MariaDB and its independent accountants may audit the Customer's relevant books and records once a year, during regular business hours, on fifteen (15) days' written notice. As part of an audit, the Customer shall run any measurement tools MariaDB provides on all environments where the Software is installed or used, and deliver the unaltered output to MariaDB or its independent accountants within thirty (30) days of MariaDB's request. Failure to do so is a material breach of this Agreement. If an audit reveals underpayment, the Customer shall immediately pay the deficit at the list prices in Section 4.4 plus the reasonable costs of the audit. The Customer shall retain all relevant records for two (2) years after this Agreement terminates or expires.

5. Proprietary Rights

5.1. **License**. The Software is governed by the license terms applicable to it, as made available on the Website or presented during installation or use (for example, MariaDB Enterprise Server is subject to the GNU General Public License, version 2, and MariaDB GridGain is subject to the MariaDB Software License Terms). The MariaDB Software License Terms, as MariaDB may amend them, are incorporated into this Agreement for Software subject to them; the Term of the applicable Order Form is the Subscription Term under those terms. The MariaDB Software License Terms prevail over this Agreement regarding the scope, restrictions, or duration of the license to the

Software, and as otherwise provided in Sections 8 and 9.6 of those terms. Except as stated in Annex A, this Agreement itself grants no license to the Software or Work Product. Any modifications to the Software provided by MariaDB under this Agreement ("**Software Modifications**") are licensed under the same terms as the underlying Software, and the Customer shall comply with such terms.

5.2. **Title**. Subject to the Customer's rights under Section 5.1, this Section 5.2, and Annex A, MariaDB retains all right, title, and interest in materials it creates or uses in performing this Agreement, including the Software, Work Product, Access Credentials, Usage Data, Usage Metrics, and any Customer feedback or suggestions ("**Feedback**"). MariaDB's ownership of Usage Data does not extend to the Customer's Confidential Information in it. The Customer retains all right, title, and interest in the Customer Data, the Customer Support Data, and any materials it provides to MariaDB, excluding the Feedback and any generalized knowledge, logic, or improvements that MariaDB derives from them. The Customer shall comply with MariaDB's trademark policies, available on its Website, and must cease all use of MariaDB's trademarks upon termination or expiration of each applicable Order Form. The Customer consents to MariaDB's use of Customer Support Data to provide and improve its offerings and to make recommendations to the Customer.

5.3. **Customer Data License**. During the Term and retrieval period under Section I.5.3 of Annex A, the Customer grants to MariaDB a non-exclusive, worldwide, royalty-free, sublicensable license to host, access, use, and process Customer Data solely as necessary to (a) provide, maintain, and support the Services and Software for the Customer, and (b) monitor, develop, and improve the Services and Software.

5.4. **Usage Data, Usage Metrics, and Access Credentials**. MariaDB may collect, generate, derive, and use Usage Data (including data transmitted from monitoring software, user feedback plug-ins, and similar software) to operate, support, improve, and develop its Products and Services. Products and Services may routinely transmit Access Credentials to MariaDB to verify license entitlements and validity status. Except as Section 8 or 9.15(d) of this Agreement or Section 9.4 of the MariaDB Software License Terms permits, MariaDB will not share Usage Data containing the Customer's Confidential Information with any third party unless transformed into Usage Metrics, which MariaDB may use for its own business purposes, including benchmarking, development, and marketing.

5.5. **Reservation of Rights**. MariaDB reserves all rights not expressly granted. No other licenses are granted by implication, estoppel, or otherwise.

6. Representations; Warranties; Disclaimers

6.1. **Customer**. The Customer represents and warrants that: (a) it has full authority to enter into and perform this Agreement; and (b) executing this Agreement will not conflict with its other obligations. The Customer will defend and indemnify MariaDB, its affiliates, and their respective personnel and representatives against all third-party claims and costs arising from: (i) a breach of the warranties above; (ii) the provision, storage, or use of Customer Data (including any claim that the collection, retention, or use of Customer Data violates applicable privacy or data protection laws or rights); or (iii) the Customer's breach of Section 6.4 of this Agreement or Section I.4.3 or I.4.5 of Annex A.

6.2. **MariaDB**. MariaDB represents and warrants that it (a) has full authority to enter into and perform this Agreement, (b) will provide the Services in a professional and workmanlike manner with the necessary skill and resources, and (c) will operate MariaDB Cloud in substantial conformity with the applicable SLA. For any breach of this SLA warranty, the Customer's exclusive remedy is the service credits specified by MariaDB or agreed by the parties. To claim a breach of warranty, the Customer must notify MariaDB in writing promptly after delivery of the affected Service (or, for SLA claims, within the period in the Support Policy), stating the alleged breach in reasonable detail; otherwise the claim is waived.

6.3. **DISCLAIMERS**. EXCEPT FOR THE EXPRESS WARRANTIES IN SECTION 6.2 AND TO THE EXTENT PERMITTED BY LAW, MARIADB PROVIDES THE SOFTWARE AND SERVICES "AS IS" AND "AS AVAILABLE." MARIADB DISCLAIMS, AND THE CUSTOMER WAIVES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, SYSTEM INTEGRATION, AND ACCURACY OF INFORMATIONAL CONTENT. MARIADB DOES NOT WARRANT THAT ANY SOFTWARE, SERVICES, OR WORK PRODUCT WILL BE ERROR-FREE OR ACHIEVE ANY SPECIFIC RESULT. MARIADB SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, OR SERVICE FAILURES INHERENT IN USE OF THE INTERNET OR FOR ISSUES RELATED TO THIRD-PARTY HOSTING PROVIDERS. THE CUSTOMER IS SOLELY RESPONSIBLE FOR MAINTAINING CURRENT AND RESTORABLE BACKUPS OF ITS DATA, SOFTWARE, AND SYSTEMS.

6.4. **Limitations on Use**. The Customer shall not, and shall not allow others to, do any of the following with the Services or Products (or any part thereof): (a) except as expressly permitted by this Agreement or the applicable Software license terms, directly or indirectly distribute, sell, transfer, sublicense, rent, lease, market, use, or commercialize them; (b) provide them on a service bureau, time-sharing, hosting, service provider, or other similar basis, or deliver them to external users; (c) reverse engineer, decompile, copy, modify, or create derivative works of them, or attempt to discover any of their source code or underlying ideas or algorithms, except as expressly permitted by this Agreement, applicable law, or open-source licenses; (d) use them to develop a competing service or product; (e) circumvent or attempt to circumvent contractual usage restrictions or Access Credentials, or use the Services or Products in a manner designed or intended to avoid Fees or exceed purchased quantities or usage limits without paying for the excess; (f) remove, alter, or obscure any proprietary notices in them; or (g) use them for any High-Risk Use. "**High-Risk Use**" means use in hazardous environments requiring fail-safe performance (such as nuclear facilities, aircraft navigation, or life support systems), where failure could cause death, personal injury, or severe damage. MariaDB is not liable for any damages from High-Risk Use. A breach of this Section 6.4 is a material breach of this Agreement.

6.5. **Requirements**. The Customer shall: (a) be responsible for its users' compliance with the Agreement; (b) use reasonable efforts to prevent, and immediately notify MariaDB of, any unauthorized use, access, or copying of the Services, its accounts, passwords, or Access Credentials; and (c) be solely responsible for the accuracy and legality of Customer Data and of its acquisition and use, including compliance with laws applicable to Customer Data (including privacy and data protection), and obtain and maintain all rights in Customer Data necessary for MariaDB to perform the Agreement and exercise the license in Section 5.3.

6.6. **Support Interactions**. The Customer is responsible for timely upgrading to generally available and supported versions of the Products and Services. MariaDB has no obligation to provide Support Services for Products or Services designated as end-of-life (**EOL**) or end-of-support (**EOS**) by MariaDB, except Extended Support under the Support Policy. The Customer is solely responsible for data transmitted outside MariaDB's secure Customer Support Portal (e.g., by email) and assumes all risks of its unauthorized access, interception, or misuse. The Customer must not submit sensitive payload data, personal data, or HIPAA Data (Section I.1 of Annex A) via support tickets, emails, or crash reports. MariaDB disclaims all liability for this prohibited data, and may immediately delete it, suspend the associated support ticket, or downgrade the SLA severity until the Customer provides sanitized logs.

7. Limitation of Liability

7.1. TO THE EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF MARIADB AND ITS AFFILIATES, LICENSORS, CONTRACTORS, AND SUPPLIERS ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE LESSER OF: (A) THE AGGREGATE FEES PAID BY THE CUSTOMER UNDER THE APPLICABLE ORDER FORM OR VARIABLE USAGE SUBSCRIPTION (AS DEFINED IN ANNEX A) DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM; AND (B) US$500,000 FOR ALL CLAIMS. IN NO EVENT SHALL MARIADB OR ITS AFFILIATES, LICENSORS, CONTRACTORS, OR SUPPLIERS BE LIABLE FOR: (1) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES; (2) ANY BUSINESS INTERRUPTION, LOSS OR CORRUPTION OF DATA, OR LOSS OF PROFITS OR REVENUE; (3) COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES; OR (4) ANY MATTER BEYOND THEIR REASONABLE CONTROL. THE PARTIES ACKNOWLEDGE THAT THIS SECTION 7.1 REFLECTS A REASONABLE ALLOCATION OF RISK AND IS AN ESSENTIAL BASIS OF THE AGREEMENT, WITHOUT WHICH MARIADB WOULD NOT HAVE ENTERED INTO THIS AGREEMENT.

8. Confidentiality

8.1. **Definition**. "**Confidential Information**" means any information disclosed by one party or its affiliate ("**Disclosing Party**") to the other party or its affiliate ("**Receiving Party**") under this Agreement that: (a) is marked or identified in writing as confidential; or (b) should reasonably be understood as confidential due to its nature or the circumstances of its disclosure.

8.2. **Obligations**. The Receiving Party must: (a) use Confidential Information solely to perform or exercise its rights under this Agreement; (b) protect it with at least the same care it uses for its own similar information, but not less than reasonable care; (c) not disclose it, except to its employees, affiliates, contractors, agents, or professional advisors who need to know it and are bound by a legal duty of confidentiality; and (d) subject to Section 8.4, store Confidential Information under its standard data retention policies unless applicable law requires a longer period. These obligations survive for two (2) years after expiration or termination of the Agreement. Obligations for trade secrets and know-how survive as long as they are legally protected.

8.3. **Exclusions**. A Receiving Party has no confidentiality obligation for information that: (a) is public knowledge, other than by the Receiving Party's breach; (b) it independently developed; or (c) it rightfully received from a third party without a duty of confidentiality. The Receiving Party may disclose Confidential Information to the extent required by law and will, if permitted, give the Disclosing Party prompt notice to allow it to seek a protective order.

8.4. **Ownership and Return**. Subject to Section 5.2, all Confidential Information remains the Disclosing Party's property. Upon request, the Receiving Party will within ten (10) business days return or (at the Disclosing Party's option) destroy it. However, MariaDB may, under Sections 5.2 and 5.4, retain and use Usage Data, Usage Metrics, and improvements generated during the Term, including after termination or expiration. Subject to Section 3.3(b), the Receiving Party need not erase Confidential Information from system backups, provided it is deleted from live systems. Feedback, Work Product, Usage Metrics, Access Credentials, and (to the extent it does not contain the Customer's Confidential Information) Usage Data are MariaDB's Confidential Information; the Customer may nevertheless use Work Product as licensed in Section III(i) of Annex A and need not return or destroy it while that license is in effect. The negotiated terms of this Agreement are the Confidential Information of both parties.

8.5. **Benchmarking**. The Customer must not disclose any Service or Product benchmark, comparative test, or evaluation ("**Benchmark**") to a third party without MariaDB's prior written approval. Any approved Benchmark disclosure must accurately detail the testing environment and methodology, as MariaDB requires.

8.6. **Equitable Remedies**. A breach or threatened breach of Section 6.4, this Section 8, Section 9.8, or Section 9.10 would cause irreparable harm for which monetary damages alone are inadequate. The non-breaching party may therefore seek injunctive or other equitable relief, including specific performance (subject to Section 9.8), without posting bond or waiving other rights or remedies (including liquidated damages under Section 9.10).

9. Miscellaneous

9.1. **Interpretation**. Headings are for reference only and do not affect the interpretation of this Agreement. "Including" and similar words mean "including without limitation." References to this Agreement include Annex A, each Order Form, the MariaDB Software License Terms, and the Support Policy, subject to the order of precedence in Section 9.12. If a provision is invalid or unenforceable, it will be modified only as necessary to become enforceable, and the rest of this Agreement will remain in effect. Except where this Agreement specifies an exclusive remedy, all rights and remedies, including termination, are cumulative.

9.2. **Assignment**. This Agreement binds the parties, their successors, and permitted assigns, and creates no third-party beneficiary rights, except for MariaDB's affiliates and the persons protected under Sections 6.1, 7, and 9.8. MariaDB may assign this Agreement, in whole or in part, without the Customer's consent to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets or voting stock. The Customer may not assign this Agreement without MariaDB's prior written consent. Any violating assignment is void.

9.3. **No Waiver; Limitations**. A failure, delay, or partial exercise of a right does not waive it or prevent its future exercise. Subject to applicable law, claims under this Agreement must be brought within one (1) year after arising, except for claims regarding MariaDB's intellectual property rights, the Customer's license violations, or unpaid Fees.

9.4. **Governing Law; Disputes**. This Agreement is governed by the laws of California, without regard to its conflict of laws principles. Any dispute arising out of or related to this Agreement shall be resolved exclusively in the state or federal courts located in Santa Clara County, California. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

9.5. **Attorneys' Fees and Costs**. In any dispute arising out of or related to this Agreement, including an action to collect unpaid Fees, the prevailing party is entitled to recover its reasonable attorneys' fees, costs, and collection expenses.

9.6. **Consent and Notices**. Unless specified otherwise, a party may withhold consent at its sole discretion. Unless stated otherwise, notices take effect upon receipt. Breach notices must be written and delivered by traceable courier to the Customer's address on the Order Form (or an updated written address provided by the Customer) or, for MariaDB, to the contact address specified on the Website for the Customer's region. Other notices may be emailed and are effective upon confirmation of receipt (excluding automated replies) or, if no confirmation is received, two (2) business days after sending (provided no delivery failure notice is received). For notices to MariaDB to be effective, the Customer must email non-renewal notices (Section 3.1) to success@mariadb.com, and email a copy of all notices to legal@mariadb.com.

9.7. **Publicity**. Neither party will make public statements about this Agreement or their relationship without the other party's prior written consent. However, the Customer permits MariaDB to use its company name and logo in customer lists on the Website, in public filings, and in materials for potential customers, partners, and investors.

9.8. **Legal Compliance and Trade Laws**. Each party must comply with all applicable laws; MariaDB is not responsible for laws specific to the Customer or its industry. The Products, Services, and Access Credentials are subject to "**Trade Laws**," meaning the export, re-export, import, and sanctions laws of the U.S. (including U.S. Treasury sanctions regulations and the Export Administration Regulations ("**EAR**")), the EU and its member states, the UK, and any other jurisdiction applicable to MariaDB, its affiliates, or the Products and Services, regardless of the contracting MariaDB entity or Customer location. The Customer will comply with Trade Laws, not cause MariaDB or its affiliates to breach them, and not, directly or indirectly, use, sell, export, re-export, transfer, disclose, or provide access to the Products, Services, or Access Credentials to, in, or for the benefit of any Restricted Country or Restricted Person. "**Restricted Person**" means any person or entity that is (a) sanctioned, blocked, or export-restricted, including on the U.S. Treasury's Specially Designated Nationals and Blocked Persons List, the U.S. Commerce Department's Denied Persons, Entity, or Military End-User Lists, any other list in the U.S. Consolidated Screening List, or any EU or UK sanctions or restricted-party list, or under blocking orders (currently including the Government of Venezuela); (b) a military or military-intelligence end user under the EAR in any country those rules cover (currently including Belarus, Burma, Cambodia, China (including Hong Kong), Nicaragua, Russia, and Venezuela); (c) located, organized, or ordinarily resident in, or the government of, a Restricted Country; or (d) at least fifty percent (50%) owned (individually or in the aggregate) or controlled, directly or indirectly, by, or acting for, any of the foregoing. "**Restricted Country**" means any country or territory subject under Trade Laws to a comprehensive embargo, to comprehensive, government-wide, or broad sectoral sanctions, to a U.S. state sponsor of terrorism designation, or to country-wide export controls on encryption or enterprise software, or designated by MariaDB in this Section or by written notice to the Customer (currently including Belarus, Cuba, Iran, North Korea, Russia, Syria, Venezuela, Crimea, Sevastopol, the entire Donetsk, Luhansk, Kherson, and Zaporizhzhia regions of Ukraine, and any Russian-occupied area of Ukraine). The Customer will contractually require any recipient of the Products, Services, or Access Credentials to comply with this Section. The Customer represents, and will ensure throughout the Term, that neither the Customer nor any of its owners, controllers, or principals is a Restricted Person, and will notify MariaDB in writing within five (5) days of any change. If MariaDB determines in good faith that the Customer breached this Section or that performance may violate Trade Laws or expose MariaDB or its affiliates to penalties, MariaDB may immediately suspend or terminate any Products, Services, or Order Forms on written notice without liability or any obligation to seek a license or alternative means to perform. This right overrides any contrary Agreement term (including Section 9.12) or local law, and specific performance or injunctive relief compelling MariaDB to perform is unavailable. The Customer will indemnify and hold harmless MariaDB and its affiliates against all fines, penalties, losses, liabilities, and costs (including reasonable legal fees) arising from or relating to its breach of this Section.

9.9. **Independent Contractors**. The parties are independent contractors. Nothing in this Agreement creates a partnership, joint venture, agency, franchise, or employment relationship.

9.10. **Non-Solicitation**. While this Agreement or any Order Form is in effect, and for six (6) months after the expiration or termination of this Agreement or the last active Order Form (whichever is later), the Customer will not solicit or hire any employee or contractor who is, or within the preceding six (6) months was, MariaDB personnel introduced to the Customer or involved in performing this Agreement. This restriction does not apply to hires resulting from general public advertisements without prior solicitation by the Customer. For any hiring in breach of this Section, in addition to MariaDB's right to seek equitable relief under Section 8.6 to prevent further breaches, the Customer must pay MariaDB, as liquidated damages (or, where applicable law restricts non-solicitation covenants, as a mutually agreed placement and training reimbursement fee), an amount equal to twenty-four (24) times the individual's average monthly compensation (including all salary, wages, bonuses, commissions, fees, and benefits) during their last six (6) months of service. The parties agree this amount is a reasonable pre-estimate of MariaDB's recruiting, training, and replacement loss, not a penalty, and that this restriction protects MariaDB's legitimate business interests and Confidential Information.

9.11. **Force Majeure**. Neither party will be liable for any failure or delay in performance caused by an event beyond its reasonable control, including governmental actions, war, riots, terrorism, epidemics, pandemics, utility failures, and natural disasters. This provision does not apply to events caused by a party's fault or negligence, nor does it excuse the obligation to pay Fees.

9.12. **Entire Agreement**. Unless agreed otherwise in a writing signed by an authorized officer of each party, this Agreement constitutes the entire agreement between the parties, superseding all prior or contemporaneous

agreements, proposals, and understandings regarding its subject matter, including default Marketplace terms. Except as stated in Annex A and for MariaDB's updates to the MariaDB Software License Terms and the Support Policy, any amendment must be in such a writing, and any terms in a purchase order or similar document supplied to MariaDB are void unless expressly agreed in such a writing. This Agreement may be executed in counterparts, which together form one agreement, and may be incorporated by reference into an Order Form. Facsimile and electronic signatures are binding as originals. If documents conflict, the order of precedence is: (1) the applicable Order Form, except as Section 5.1 provides; (2) the MariaDB Software License Terms, subject to Section 5.1; (3) Annex A; (4) Sections 1 to 9 of this Agreement; and (5) the Support Policy.

9.13. **U.S. Government End Users**. If the Customer is a U.S. Government entity, the Software and its documentation are commercial computer software and commercial computer software documentation provided with RESTRICTED RIGHTS as customarily provided to the public under this Agreement, in accordance with FAR 12.212 and DFARS 227.7202, as applicable. The U.S. Government's rights, including to use, modify, reproduce, or disclose them, are subject to the license rights and restrictions in this Agreement.

9.14. **Quebec**. If the Customer is located in Quebec, Canada, the parties confirm their express wish that this Agreement and all related documents be drawn up in English. Les parties confirment leur volonté expresse que cette convention et tous les documents y afférents soient rédigés en anglais.

9.15. **Purchase from MariaDB Partner**. This Section applies when the Customer orders Products and Services through an authorized MariaDB reseller, distributor, ISV, or Marketplace ("**Partner**"). The MariaDB entity accepting the order is the contracting party. The accepted order constitutes the Order Form. This Agreement governs the Customer's use of the Products and Services as end user and constitutes the End User License Agreement (**EULA**), superseding any conflicting terms in the Customer's contract with the Partner, and binds the Customer upon the earliest of acceptance, receipt of Access Credentials, or first use. (a) *Roles*. The Partner is not MariaDB's agent and cannot amend this Agreement or make commitments on MariaDB's behalf. MariaDB's obligations are limited to the accepted order; any other Customer claims must be directed to the Partner. (b) *Payment*. The Customer must pay all fees to, and claim any refunds from, the Partner. MariaDB owes no refunds or credits for payments made to the Partner. "**Ordering Party**" means the entity (the Partner or its distributor) that placed the order with MariaDB. MariaDB relies on the Ordering Party for payment, but may directly invoice the Customer for excess usage under Section 4.4 if the Ordering Party fails to pay within thirty (30) days of MariaDB's invoice. (c) *Modified Sections*. The auto-renewal and Reinstatement Period in Section 3.1 do not apply; Partner orders renew only via a new Ordering Party order or through the Marketplace, and the Customer bears the risk of any interruption caused by a late order. MariaDB may suspend Services upon expiration, with any continued use billed to the Customer at then-current Fees. The Customer owes MariaDB Fees or Taxes only on MariaDB's direct invoices, which Sections 4.1 to 4.3 govern; the rest of Section 4 applies in full. The Customer's usage rights under Section 5.1 and Annex A are contingent upon MariaDB receiving payment for the order. Service credits (Section 6.2) are issued only to the Ordering Party and must be claimed from the Partner. The liability cap under Section 7.1(A) is limited to amounts MariaDB actually received for the order in the twelve (12) months preceding the event giving rise to the claim. (d) *Information*. MariaDB may provide the Partner and the Ordering Party with necessary order information, including entitlements, quantities, renewal dates, excess usage, and support activity. The Customer may request written confirmation of the Partner's status from MariaDB or the Partner. (e) *Running Orders*. Subject to applicable law and Section 3.2, MariaDB will honor all accepted, unexpired, and unterminated orders until the end of their Term, even if the Partner's or Ordering Party's authorization is suspended or terminated. MariaDB may directly invoice the Customer at the accepted order price for any unpaid portion of the Term. If any order amount becomes overdue, MariaDB may suspend or terminate the order and related Services upon notice to the Customer, without liability.

ANNEX A: SERVICE-SPECIFIC ADDITIONAL TERMS

I. MariaDB Cloud Additional Terms. The following terms apply to MariaDB Cloud.

1. **Definitions**

1.1. "**Committed Subscription**" means an Order Form subscription for a pre-agreed quantity and type of Products and Services for a specified period (the "**Committed Subscription Term**" and, for a Committed Subscription, the "**Term**").

1.2. "**HIPAA Data**" means protected health information regulated by the Health Insurance Portability and Accountability Act or similar laws.

1.3. "**Invoice Period**" means the billing period for invoiced Fees specified in an Order Form (for a Committed Subscription) or set by MariaDB (for a Variable Usage Subscription or Overages).

1.4. "**On-Demand Usage Price**" means the then-current Fees for a Variable Usage Subscription or for Overages, subject to change at any time without notice.

1.5. "**Overages**" means Customer usage of MariaDB Cloud that exceeds the limits of a Committed Subscription during an Invoice Period or the Term.

1.6. "**Variable Usage Subscription**" means a subscription without a pre-agreed commitment, billed based on actual usage (including all provisioned compute, storage, and other resources). It continues until the Customer deletes all provisioned resources and closes its account, or MariaDB terminates it under this Agreement or with thirty (30) days' notice. Suspension does not end the subscription or stop Fees from accruing. For this subscription, the restriction on decreasing quantities in Section 2.3 and the renewal provisions in Section 3.1 of the Agreement do not apply, and "**Term**" means the continuous period it remains active.

2. **Scope**

2.1. MariaDB provides MariaDB Cloud per the Order Form or the Customer's MariaDB Cloud account selection. Subject to Section I.5.1 below, MariaDB is not responsible for Customer applications, configurations, or data.

2.2. Solely with respect to MariaDB Cloud, Section 5.1 of the Agreement is replaced with: "5.1. **Access**. Subject to Fee payment, MariaDB grants the Customer a limited, non-exclusive, non-transferable, revocable right to access and use MariaDB Cloud and hosted Products for internal business purposes during the Term."

3. **Fees**

3.1. **General**. MariaDB may change or add Fees for MariaDB Cloud at any time, except for the committed quantities of a Committed Subscription during its then-current Term.

3.2. **Committed Subscriptions**. The Customer must pay Committed Subscription Fees regardless of actual use. Unless the Order Form specifies otherwise, the auto-renewal and Reinstatement Period in Section 3.1 of the Agreement do not apply to a Committed Subscription, which instead automatically converts to a Variable Usage Subscription when the Committed Subscription Term expires (unless the Customer deletes all provisioned resources and closes its account before expiration). Any unused portion of a Committed Subscription for an Invoice Period or Term is forfeited.

3.3. **Variable Usage Subscriptions and Overages**. Variable Usage Subscriptions and Overages are invoiced at the On-Demand Usage Price in effect when incurred for the applicable Invoice Period.

3.4. **Credit Cards**. MariaDB's third-party processor will process credit card payments using the card on file. If paying by credit card, the Customer authorizes recurring monthly charges. MariaDB may charge accrued Fees more frequently if it suspects fraud or non-payment risk. The Customer waives chargeback rights and will reimburse MariaDB for related fees.

4. **Customer Responsibilities and Restrictions**

4.1. **Access**. The Customer must maintain an account with a valid email and payment method, limited to one account per email address unless otherwise agreed in writing.

4.2. **End Users**. The Customer is responsible for any third-party actions it facilitates regarding the Agreement, Customer Data, or MariaDB Cloud.

4.3. **Acceptable Use Policy**. The Customer and its authorized users must not, and must not allow others to: (a) transmit spam, unlawful material, or malicious code (such as viruses, worms, or Trojan horses); (b) upload unmasked sensitive data (e.g., credit card or social security numbers) or any data in violation of PCI DSS requirements; or (c) disrupt the integrity, availability, or performance of MariaDB Cloud or its data.

4.4. **Third-Party Services**. MariaDB may use third-party software, technology, or services ("**Third-Party Services**") to provide MariaDB Cloud, including for payment processing. MariaDB does not control or warrant Third-Party Services, and the Customer must comply with applicable third-party terms.

4.5. **Bring Your Own Cloud**. If the Customer deploys MariaDB Cloud in its own environment ("**BYOC**"), this Section I.4.5 prevails over conflicting Agreement terms, notwithstanding Section 9.12.

(a) *General*. MariaDB operates a centralized management environment to deploy MariaDB Cloud in the BYOC (the "**Control Plane**"). The BYOC separates this Control Plane from the compute, storage, and networking resources in the Customer's account (the "**Data Plane**"). The Customer remains solely responsible for its relationships with and payments to cloud providers and other environment suppliers. MariaDB is not liable for any infrastructure costs, fees, or overages incurred in the Data Plane from operating the Services.

(b) *Security and Control*. MariaDB controls only resource deployment and maintenance for MariaDB Cloud in the BYOC. MariaDB will use commercially reasonable measures to protect BYOC deployments (including MariaDB-deployed components in the Data Plane) from unauthorized access, use, or disclosure, and will access Customer Data only to provide the Services or enforce this Agreement. MariaDB may continuously scan, audit, and verify the BYOC environment's configuration and security. MariaDB may, without liability, refuse deployment or immediately suspend the Services if the Customer's infrastructure fails to meet MariaDB's baseline security prerequisites, or if the Control Plane loses required connectivity or telemetry from the Data Plane.

(c) *Customer Obligations*. The Customer must, following industry standards: (i) provide and maintain the IAM roles, networks, and telemetry (including metrics and logs) required for the Control Plane; (ii) secure its BYOC environment and restrict MariaDB's access to the minimum necessary; (iii) maintain restorable backups of BYOC data, software, and systems; (iv) not alter BYOC parameters or install software that could degrade the Services; and (v) not interfere with MariaDB-deployed infrastructure. The BYOC SLA is conditioned upon the Customer complying with these obligations.

(d) *SLA and Liability*. Unauthorized modification, including any breach of (c)(iv) or (v), is a material breach that suspends SLA commitments until remediated. Downtime or data loss caused by cloud providers or the Customer is Excluded Downtime (under the Support Policy). The Customer is strictly liable for Data Plane misconfigurations or unauthorized access, unless directly caused by MariaDB's gross negligence or willful misconduct. MariaDB does not host, back up, or provide disaster recovery for the Data Plane. Support time spent on BYOC infrastructure issues is billable at standard professional services rates.

5. Customer Data

5.1. **Data Protection and Security**. Any executed MariaDB Customer Data Processing Addendum (**DPA**) is incorporated. MariaDB will maintain commercially reasonable administrative, physical, and technical safeguards and controls for the availability, security, confidentiality, and integrity of Customer Data stored in MariaDB Cloud.

5.2. **HIPAA Data**. The Customer must not upload HIPAA Data without a signed business associate agreement governing it ("**BAA**"). Without a BAA, MariaDB has no liability for HIPAA Data. Any executed BAA is incorporated.

5.3. **Customer Data Upon Termination**. For thirty (30) days after termination, expiration, or account closure, the Customer may retrieve or delete Customer Data, subject to standard egress and professional services Fees. This right is void if permitting retrieval or deletion is prohibited by law or would expose MariaDB to legal liability. The environment will be read-only; production use is prohibited. Afterward, MariaDB may permanently delete all Customer Data without notice or liability.

6. Term and Termination

6.1. **Additional Services**. Any MariaDB Cloud services added to a Committed Subscription during its Term co-term with that Committed Subscription Term; any services or resources provisioned under a Variable Usage Subscription remain active and billable until deleted by the Customer or terminated under this Agreement.

6.2. **Effect of Termination**. Upon termination, incurred Fees are immediately due. If the Customer terminates for MariaDB's uncured material breach, these Fees remain due on their ordinary payment dates.

6.3. **Suspension**. MariaDB may suspend access to MariaDB Cloud for late payments, and may suspend access immediately if it reasonably determines the Customer's use poses a risk or violates laws, or if the Customer makes the Services or any component publicly available. The Customer is not entitled to service credits during any suspension.

7. **General**

7.1. **Notices**. MariaDB may give the Customer notice by posting it on the Website, effective upon posting, or by email to the address associated with the Customer's account, effective when sent.

7.2. **Amendments**. For Variable Usage Subscriptions and Electronic Orders, MariaDB may amend these MariaDB Cloud Additional Terms and the Agreement by notifying the Customer. Amendments take effect thirty (30) days after notice, or immediately where required by law. The Customer accepts amendments by continuing to use the Services after their effective date. MariaDB may modify the Services provided it does not materially reduce their core functionality or security during the then-current Committed Subscription Term.

II. Managed Operations (formerly Remote Database Administrator, Remote DBA, or RDBA) Additional Terms. The following terms apply to Managed Operations services: (a) *Scope*. MariaDB provides Managed Operations services as Support Services under the Support Policy. (b) *Customer Responsibilities*. The Customer must provide timely database access and follow Managed Operations best practices and recommendations.

III. Professional Services Additional Terms. Unless the Order Form states otherwise, these terms apply to MariaDB professional services: (a) *Scope*. Professional services exclude Support Services and maintenance. (b) *Fees*. (1) Professional services are provided on a time-and-materials basis, with Fees estimated by workdays; (2) standard workdays are eight (8) hours, Monday to Friday, excluding local MariaDB holidays; and (3) services outside standard times may incur additional Fees. MariaDB will invoice monthly in four (4)-hour half-day increments (with a four (4)-hour minimum per day/session). (c) *Expenses*. The Customer must reimburse MariaDB for reasonable travel and out-of-pocket expenses (e.g., airfare, lodging, meals) related to professional services. (d) *Customer Responsibilities*. The Customer must provide necessary resources, personnel, data, and access to its premises and systems. Before services begin, the Customer must: (1) provide required root/sudo privileges, and configure internal networks and firewalls; (2) ensure a current, verified, and restorable backup exists; and (3) mask all personal or sensitive data before providing MariaDB access. The Customer must not record any sessions without MariaDB's prior written consent. (e) *Scheduling*. MariaDB determines final schedules based on availability. Cancellations or changes with less than seven (7) business days' notice incur a one (1)-day consulting Fee at current rates, plus any non-refundable travel costs. (f) *Usage and Expiration*. Subject to Section III(g), purchased consulting days, training credits, and Technical Account Manager ("**TAM**") hours must be used within twelve (12) months of the relevant Initial Term or Renewal Term start date. Unused portions are forfeited without refund or credit, and MariaDB may terminate the Order Form and retain paid Fees. Order Forms solely for professional services (except TAM services) or training do not automatically renew under Section 3.1 of the Agreement. (g) *TAM Services*. TAM services are sold and consumed in minimum four (4)-hour blocks (up to the weekly hours purchased on the Order Form, not to exceed forty (40) advisory hours per week), and are limited to: (1) Strategic Advisory (architecture and best practices guidance); (2) Liaison (point of contact for technical escalations and engineering coordination); and (3) Reviews (infrastructure and roadmap alignment reviews). Unused weekly hours do not roll over but remain payable. MariaDB will try to reschedule hours missed due to holidays or staff illness. Order Forms with TAM services automatically renew for those TAM services and any related Support Services under Section 3.1 of the Agreement. (h) *Acceptance*. The Work Product is provided "as is" at the Customer's sole risk, without Support Services or maintenance. It is deemed accepted unless the Customer provides written notice of material non-conformance within five (5) business days of receipt. Upon timely notice, MariaDB will use reasonable efforts to correct the non-conformance as the Customer's exclusive remedy. (i) *Work Product License*. Subject to Fee payment, MariaDB grants the Customer a perpetual, non-exclusive, non-transferable, royalty-free license (without sublicense rights) to use and copy the Work Product for internal business purposes. MariaDB may terminate this license if the Customer breaches this Section III(i) or Section 6.4 of the Agreement and fails to cure the breach within thirty (30) days of written notice. Section 6.4 applies to Work Product as it applies to Products. Software Modifications within the Work Product remain licensed under Section 5.1 of the Agreement.

IV. Trials, Evaluation, Preview, and Beta Programs. (a) *Scope and License*. MariaDB may grant the Customer a limited, non-exclusive, non-transferable, revocable license to use Products, Services, or preview or beta versions ("**Trial Materials**") solely to evaluate them for a purchase decision ("**Trial Purpose**") during the period MariaDB designates or until MariaDB revokes the license or access, whichever is earlier ("**Trial Period**"). Software provided

as Trial Materials is licensed under the MariaDB Software License Terms without Fees or an active subscription; under those terms, the Trial Period is the Subscription Term, and this Section constitutes the granted license. MariaDB may modify Trial Materials or access restrictions, or delete Customer Data in the Trial Materials, at any time without notice or liability. Upon request, the Customer will provide Feedback on the Trial Materials. (b) *Restrictions*. The Customer must use Trial Materials solely for internal, non-commercial evaluation and must not use them for: (i) production; (ii) development; or (iii) competitive analysis by or on behalf of a competitor. (c) *Disclaimer and Liability*. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, MARIADB PROVIDES TRIAL MATERIALS "AS IS" AND "AS AVAILABLE" WITHOUT SUPPORT, SERVICE LEVEL AGREEMENTS, WARRANTIES, OR INDEMNITIES, AND DISCLAIMS ALL LIABILITY ARISING FROM OR RELATED TO THE CUSTOMER'S USE OF TRIAL MATERIALS. (d) *End of Trial*. Upon expiration of the Trial Period or MariaDB's request, the Customer must cease using and return or destroy all Trial Materials. If the Customer uses Trial Materials beyond the Trial Period or Trial Purpose, MariaDB may invoice, and the Customer must pay, the then-current Fees for applicable Products and Services starting from the first day of unauthorized use.