

MASTER SERVICES AGREEMENT

Last Updated: Aug 12th, 2026

THIS MASTER SERVICES AGREEMENT (THIS “**AGREEMENT**”) IS A LEGAL CONTRACT BETWEEN YOU, AS IDENTIFIED IN THE APPLICABLE ORDER FORM (TOGETHER WITH YOUR AFFILIATES (AS DEFINED BELOW), THE “**CUSTOMER**”, “**YOU**”) AND DUAL BIRD TECHNOLOGIES INC. (TOGETHER WITH ITS AFFILIATES, “**DUAL BIRD**”) (EACH, A “**PARTY**” AND COLLECTIVELY, THE “**PARTIES**”). BY CLICKING “I ACCEPT”, “I APPROVE”, OR A SIMILAR INDICATION OF CONSENT TO THIS AGREEMENT, OR BY OTHERWISE ACCESSING OR USING THE SERVICES, OR BY EXECUTING AN ORDER FORM OR OTHER ORDERING DOCUMENT THAT REFERENCES THIS AGREEMENT (AS DEFINED BELOW), THE CUSTOMER ACKNOWLEDGES THAT IT HAS READ, UNDERSTOOD, AND AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT (THE DATE OF SUCH OCCURRENCE BEING THE “**EFFECTIVE DATE**”).

IF YOU DO NOT WISH TO BE BOUND BY THE TERMS OF THIS AGREEMENT OR DO NOT HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF YOUR COMPANY OR OTHER LEGAL ENTITY DO NOT ACCEPT THIS AGREEMENT AND DO NOT ACCESS AND/OR USE THE SERVICES.

DUAL BIRD RESERVES THE RIGHT TO MAKE CHANGES TO THIS AGREEMENT AT ANY TIME BY POSTING THE UPDATED VERSION AT ITS WEBSITE AND NOTIFYING THE CUSTOMER BY SENDING A NOTICE TO CUSTOMER TO ITS EMAIL ADDRESS INDICATED IN THE APPLICABLE ORDER FORM, OR USED BY CUSTOMER TO REGISTER TO THE SERVICES. SUCH CHANGES WILL BE EFFECTIVE TEN (10) DAYS AFTER SUCH POSTING, AND THE CUSTOMER'S CONTINUED USE OF THE SERVICES THEREAFTER SHALL CONSTITUTE CUSTOMER'S ACCEPTANCE OF SUCH CHANGES.

1. **DEFINITIONS.** The definitions for some of the defined terms used in this Agreement are set forth below. The definitions for other defined terms are set forth elsewhere in this Agreement:
 - 1.1. “**Affiliate**” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. The term “**control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.
 - 1.2. “**Applicable Law**” means, with respect to any Party, any federal, state, or local statute, law, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, directive, judgment, decree, or other requirement of any international, federal, state, or local court, administrative agency, or commission or other governmental or regulatory authority or instrumentality, domestic or foreign, applicable to such Party or any of its properties, assets, or business operations.
 - 1.3. “**Authorized User**” means Customer's employees, contractors, or agents allowed by Customer to use the Services pursuant to the terms and conditions of this Agreement; provided, however, that any contractors’ or agents’ use of the Services will be limited to their provision of services to Customer. Customer is responsible for all acts and omissions of Authorized Users and any other person who uses the Services using any of Customer login credentials.
 - 1.4. “**Accelerator**” means Dual Bird's proprietary software, including Dual Bird's plugin for Apache Spark and any related components, agents, and interfaces, that is deployed in and runs within the Customer’s cloud environment as part of the Services, to enable acceleration of the Customer's data processing workloads and/or communications between Customer systems and the Services, as further described in the Documentation and/or applicable Order Form.
 - 1.5. “**Confidential Information**” means: any information disclosed by or on behalf of either Party to the other Party in writing, orally or by inspection, including without limitation, (i) with respect to Dual Bird, the Services, the Accelerator and any and all source code relating thereto, the Usage Data, the Documentation, the Feedback, pricing and fees related to the Services provided hereunder, and any other non-public information or material regarding our legal or business affairs, financing, customers, properties, pricing, or data; (ii) with respect to

Customer, the Customer Data, and any other non-public information or material regarding Customer's legal or business affairs, financing, Authorized Users, properties, or data; and (iii) with respect to each Party, the terms and conditions of this Agreement. Notwithstanding any of the foregoing, Confidential Information does not include information which: (a) is or becomes public knowledge without any action by, or involvement of, the Party to which the Confidential Information is disclosed (the **"Receiving Party"**); (b) is known to the Receiving Party prior to its disclosure by the other Party as shown by documentary evidence (the **"Disclosing Party"**); (c) is independently developed by the Receiving Party without reference or use of the Confidential Information of the Disclosing Party as shown by documentary evidence; or (d) is obtained by the Receiving Party without restrictions on use or disclosure from a third party.

- 1.6. **"Customer Data"** means any data and information submitted by or for Customer to the Services. The Customer shall insure that such information shall not include any Personal Data (as defined below).
- 1.7. **"Documentation"** means the manuals, specifications, and other materials describing the functionality, features, and operating characteristics, and use of the Services (including the Accelerator) as provided or made available by Dual Bird to Customer whether in a written or electronic form from time to time.
- 1.8. **"Usage Data"** means aggregated and anonymized data and information about the access to, use of, and performance of the Services by Customer and its Authorized Users, including, without limitation, technical, operational, and usage metrics such as database sizes, traffic volume, statistics regarding read/write operations, and replication statistics, and metadata concerning the structure and characteristics of Customer's workloads and datasets (such as schema, query-plan, and data-distribution statistics), that are generated or derived in connection with the operation of the Services. Usage Data does not include Customer Data, the substantive content of any data processed through the Services, or any personally identifiable information, and does not identify Customer or any individual.
- 1.9. **"Order Form"** means an order that is signed by authorized representatives of both Parties and that sets forth: (i) the term of the Services; (ii) the applicable Fees (as defined below); and (iii) other mutually agreed upon terms and conditions relating to such order. The Parties may subsequently elect to enter into additional Order Forms using a substantially similar form.
- 1.10. **"Services"** means Dual Bird's data processing acceleration services, provided on a managed basis, pursuant to which Dual Bird enables the optimization and acceleration of the Customer's data processing workloads through the deployment and operation of the Accelerator within the Customer's cloud environment, as further specified in the applicable Order Form. The Services include any Updates (as defined below) and related Documentation made available by Dual Bird pursuant to this Agreement. The Accelerator operates in the Customer's cloud environment, while Dual Bird (or its subcontractors) provide management, support and orchestration of the Services. For clarity, the Accelerator is an integral part of, and shall be deemed included in the Services.
- 1.11. **"Professional Services"** means any services and deliverables related to the Services, if any, but not provided as part of the Services, as further described in the applicable Order Form.
- 1.12. **"Updates"** means any corrections, fixes, patches, workarounds, and modifications to the Services or the Accelerator provided to Customer under this Agreement, which Dual Bird makes generally available to all customers, as reasonably determined by Dual Bird.
2. **ORDERS.** The use of the Services will be as set forth in one or more Order Forms. Each Order Form is deemed incorporated into and made a part of this Agreement. To the extent any provision set forth in an Order Form conflicts with any provision set forth elsewhere in this Agreement, the provision set forth in the applicable Order Form shall govern.

3. USE OF THE SERVICE.

- 3.1. **Right to Use the Services.** Subject to the terms and conditions of this Agreement, the applicable Order Form, and the Documentation, Dual Bird hereby grants Customer, during the Subscription Term (as defined below), a limited, non-exclusive, non-transferable, non-sublicensable, and revocable right to access and use the Services, including the Accelerator, solely for Customer's internal business purposes. Customer will remain responsible and liable for any breach of this Agreement by its Authorized Users, employees, service providers or representatives and any other person accessing or using the Services through its or its Authorized Users' login credentials. For clarity, the Accelerator is not a standalone product and may be accessed and used solely as an integral part of the Services during the Subscription Term, in accordance with this Agreement, the applicable Order Form and the Documentation. The Accelerator is licensed, not sold. Dual Bird and its licensors reserve all rights in and to the Services and the Accelerator not expressly granted to Customer under this Agreement, and no licenses or rights are granted by implication, estoppel, or otherwise.
- 3.2. **Usage Limitations.** The subscription to the Services may be subject to certain usage limitations that are set forth in the applicable Order Form ("**Usage Limitations**").
- 3.3. **Modifications.** Dual Bird reserves the right to modify the Services from time to time by adding, deleting, or modifying features to improve the user experience in the Services or for other business purposes. Dual Bird further reserves the right to discontinue any feature of the Services at any time during the Subscription Term at its sole and reasonable discretion. Any such modification or discontinuance will not materially decrease the overall functionality of the Services as then provided to the Customer. For avoidance of doubt, Dual Bird may from time to time introduce new or additional, functionality, modules, features or services, which may be offered subject to additional fees; such new or additional features shall not form part of the Services subscribed to under an existing Order Form, and Customer shall have no right to use them, unless and until the Parties agree on their inclusion and the applicable Fees in an Order Form or other written agreement.
- 3.4. **Beta Features.** From time to time, Dual Bird may invite Customer to try "beta" features or functionalities of the Services which are not generally available to our customers. Customer may accept or decline any such trial in its sole discretion. Such beta features are for evaluation purposes only and not for use, are not considered part of the Services under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise expressly agreed by Dual Bird, any beta feature trial period will expire upon the date that a version of the beta feature becomes generally available to all of Dual Bird's customers for use or upon the date that Dual Bird elects to discontinue such beta feature. Dual Bird may discontinue beta features at any time in its sole discretion and may never make them generally available as part of the Services. Dual Bird will have no liability to Customer or any third party for any harm or damage arising out of or in connection with any use of a beta feature, and Customer use of any beta feature is at its own risk.
- 3.5. **Restrictions on Use.** Customer shall not (and shall not authorize, permit, or encourage any third party to): (i) allow anyone other than Authorized Users to use the Services or the Accelerator; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code or interface protocols of the Services or the Accelerator; (iii) modify, adapt, or translate the Services or the Accelerator, or any portion or component thereof; (iv) make any copies of the Services or the Accelerator, or any portion or component thereof; (v) remove or modify any proprietary markings or restrictive legends placed on the Services or the Accelerator; (vi) use the Services or the Accelerator, or any portion or component thereof in violation of any Applicable Law, or in order to build a competitive product or service, or in a way which violates the Usage Limitations or for any purpose not specifically permitted in this Agreement; (vii) introduce, post, or upload to the Services any type of harmful code; (viii) circumvent any processes, procedures, or technologies that Dual Bird have put in place to safeguard the Services; (ix) use the Accelerator independently of the Services or outside the scope permitted by the Agreement including, the Documentation; or (x) abuse, misuse, interfere with, disrupt, or attempt to gain unauthorized access to the Services, the Accelerator, or any related systems or networks, including by: (a) probing, scanning, or testing the vulnerability of the Services; (b) using bots, scrapers, or automated means to access the Services except as expressly permitted in the Agreement including, the Documentation; (c)

performing denial-of-service attacks; or (d) using the Services in a manner that is intended to avoid incurring Fees or that otherwise imposes an unreasonable or disproportionately large load on the Services; or (xi) disclose or publish to any third party the results of any benchmark or other performance test of the Services or the Accelerator without Dual Bird's prior written consent.

Without limiting Section 6.4 (Our Disclaimer), Customer acknowledges and agrees that the Services' performance and availability may be impacted by Customer's systems or environment and by third-party cloud, hosting, telecommunications, internet, and related service providers and infrastructure, and Dual Bird will not be liable for any unavailability, interruption, delay, loss, corruption, or security incident arising from or attributable to any of the foregoing third-party services or Customer's systems or environment. Customer shall be responsible for any breach of this section by its Authorized Users.

- 3.6. **Hosting.** During the Subscription Term, Dual Bird will host and operate a portion of the Services and make them available to Customer remotely over the internet. To access and use the Accelerator, Customer shall download, install, and operate the Accelerator within Customer's cloud environment, as further described in the Agreement, the applicable Order Form and the Documentation. Customer is solely responsible for obtaining, maintaining, and securing all equipment, systems, and ancillary services necessary to connect to, access, or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking components, web servers, a reliable internet connection, and a cloud environment. Dual Bird shall have no liability to Customer or any third party for any harm, loss, or damage arising out of or in connection with Customer's internet connectivity, cloud environment, or other Customer-controlled systems.
- 3.7. **Support Services.** Dual Bird shall use commercially reasonable efforts to provide Customer and its Authorized Users help desk and technical support in connection with the Services during its business days and hours in accordance with Dual Bird's policy, as amended from time to time and subject to the Customer's use of the most updated version of the Service (the "**Support Services**"). Additional maintenance or Professional Services may be purchased by the Customer on such terms to be agreed between the Parties in an applicable Order Form. Dual Bird may from time to time make Updates to the Accelerator available, and Customer shall install or enable such Updates promptly, and in any event within thirty (30) days of being notified of their availability. Dual Bird shall have no responsibility or liability for any issue, defect, or security vulnerability to the extent arising from Customer's failure to timely install an Update, and the Support Services and the warranty in Section 6.3 apply only to the then-current version of the Accelerator and the immediately preceding version.
- 3.8. **Personal Data.** The Services are not designed or intended for, and do not require, the processing of personal data, personal information, or other information relating to an identified or identifiable individual under any applicable law (collectively, "Personal Data") by Dual Bird on Customer's behalf. Except as expressly agreed by the Parties in writing (including in an applicable Order Form), Customer shall not transfer or otherwise make available to Dual Bird any Personal Data, and shall configure its systems and its use of the Services such that no such information is included in any logs, telemetry, or diagnostic outputs made available to Dual Bird. If the Parties subsequently agree that Dual Bird will process Personal Data on Customer's behalf, the Parties shall enter into a customary data processing agreement prior to any such processing.

4. **INTELLECTUAL PROPERTY.**

- 4.1. As between the Parties, all right, title, and interest in and to the Services, the Accelerator, the Feedback (as defined below), and the Usage Data including all modifications, improvements, adaptations, enhancements, derivatives, or translations made thereto or therefrom, and all intellectual property rights therein, are and will remain the sole and exclusive property of Dual Bird. All rights, title, and interest in Customer Data, and all intellectual property rights therein, will be and remain Customer's sole and exclusive property. Customer acknowledges and agrees that Dual Bird may collect, generate, and use Usage Data during and after the Subscription Term to operate, maintain, secure, improve, and develop the Services and Dual Bird's other

products and services, and for benchmarking and analytics purposes. For clarity, Usage Data will at all times remain aggregated and anonymized and will not identify Customer, any Authorized User, or any individual.

4.2. During the Subscription Term, Customer or its Authorized Users may elect to provide Dual Bird with feedback, comments, and suggestions with respect to the Services, including the Accelerator ("**Feedback**"). Customer agrees that Dual Bird will be the sole owner of all rights, including intellectual property rights in such Feedback and that such Feedback shall be considered Dual Bird's Confidential Information and Customer hereby irrevocably and unconditionally transfers and assigns to Dual Bird all intellectual property rights it has in such Feedback and waives any and all moral rights that Customer may have in respect thereto. It is further understood that the use of Feedback, if any, may be made by Dual Bird at its sole discretion and that Dual Bird in no way shall be obliged to make use of any kind of Feedback or part thereof.

5. **CONFIDENTIALITY.** At all times, the Receiving Party will protect and preserve the Confidential Information of the Disclosing Party as confidential, using no less care than that with which it protects and preserves its own confidential and proprietary information (but in no event less than a reasonable degree of care), and will not use the Confidential Information for any purpose except to perform its obligations and exercise its rights under this Agreement. The Receiving Party may disclose, distribute, or disseminate the Disclosing Party's Confidential Information to any of its officers, directors, members, managers, partners, employees, contractors, or agents (its "**Representatives**"), provided that the Receiving Party reasonably believes that its Representatives have a need to know and such Representatives are bound by confidentiality obligations at least as restrictive as those contained herein. The Receiving Party will not disclose, distribute, or disseminate the Confidential Information to any third party, other than its Representatives, without the prior written consent of the Disclosing Party. The Receiving Party will at all times remain responsible for any violations of this Agreement by any of its Representatives. If the Receiving Party is legally compelled to disclose any of the Disclosing Party's Confidential Information then, the Receiving Party will provide the Disclosing Party prompt prior written notice of such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Section. If such protective order or other remedy is not obtained or the Disclosing Party waives compliance with the provisions of this Section, the Receiving Party may furnish only that portion of the Confidential Information which it is advised by its counsel is legally required to be disclosed, and will use reasonable efforts to ensure that confidential treatment will be afforded such disclosed portion of the Confidential Information. Except as expressly set forth in this Agreement, within five (5) days after receiving any request by the Disclosing Party, the Receiving Party shall, to the extent reasonably possible, destroy (including delete) or deliver to the Disclosing Party, at the Disclosing Party's option, all materials in the Receiving Party's possession or control that contain any of the Disclosing Party's Confidential Information, except that the Receiving Party may keep a copy of the Disclosing Party's Confidential Information if required for its records to establish its compliance with this Agreement. Upon request, the Receiving Party will provide the Disclosing Party a written certification of the Receiving Party's compliance with Receiving Party's obligations under the preceding sentence. Subject to the rights granted in this Agreement, all right, title, and interest in and to the Confidential Information are and shall remain the sole and exclusive property of the Disclosing Party.

6. **REPRESENTATIONS AND WARRANTIES; OUR DISCLAIMER.**

6.1. **Mutual Representations and Warranties.** Each Party represents and warrants that: (i) it has full power and authority to enter into this Agreement; (ii) that this Agreement constitutes a valid and binding obligation enforceable against it; (iii) that the individual signing on its behalf is authorized to do so, and (iv) that it will comply with all Applicable Law in performing its obligations hereunder.

6.2. **Representations and Warranties of Customer.** In addition to the representations and warranties set forth above, Customer represents and warrants that it has obtained all necessary consents, permissions, and authorizations required under Applicable Law for any Customer Data provided to Dual Bird, if any. In addition, Customer

acknowledges that, to enable Dual Bird to provide the Services, Customer's cooperation will be required, including providing support and assistance to Dual Bird in performing tasks as described in the applicable Order Form, or the Documentation.

6.3. Representations and Warranties by Dual Bird. Dual Bird shall use reasonable effort consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Services in a professional and workmanlike manner. Without derogating from the foregoing, the Parties acknowledge that the Services are not free from errors or bugs of any kind, including the Services collapse, slow action, etc. The Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Dual Bird or by third-party providers, or because of other causes beyond Dual Bird's reasonable control, but Dual Bird shall use reasonable efforts that any scheduled service disruption will occur out of business hours and to provide advance notice by e-mail of any scheduled service disruption. Further, Dual Bird represents and warrants that the Services, when used in accordance with this Agreement, any applicable Order Form, and the Documentation, will perform in all material respects in accordance with this Agreement, any applicable Order Form, and the Documentation. Customer's sole and exclusive remedy under such warranty shall be that Dual Bird will use commercially reasonable efforts to provide Customer the remedy services in accordance with its service policy, as amended from time to time or if Dual Bird determines such remedy to be impracticable, to allow Customer to terminate the applicable Subscription Term and receive as its sole remedy a refund of any fees Customer has pre-paid for use of the Services that it has not received as of the date of the warranty claim. The limited warranty set forth in this Section 6.3 shall not apply: (i) unless Customer makes a claim within sixty (60) days of the date on which the condition giving rise to the claim first appeared and support it with documented evidence, (ii) if the error was caused by misuse, unauthorized modifications or third-party hardware, software or services, or (iii) with respect to Services provided on a no-charge or evaluation basis. In addition, this warranty shall not apply to any portion of the Services that (a) has been subject to abuse, negligence, accident, improper use or maintenance, by anyone other than Dual Bird, without Dual Bird's express prior written consent; (b) is used in combination with any other products, process, equipment or software not approved by Dual Bird; (c) is related to a virus, worms and the like; or (d) has been damaged by causes beyond the control of Dual Bird.

6.4. Our Disclaimer. NOTWITHSTANDING ANY OTHER PROVISIONS HEREUNDER, DUAL BIRD DOES NOT WARRANT THAT THE SERVICES (INCLUDING THE ACCELERATOR) WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES (INCLUDING THE ACCELERATOR). WITHOUT LIMITING THE FOREGOING, DUAL BIRD DOES NOT WARRANT OR GUARANTEE ANY PARTICULAR PERFORMANCE IMPROVEMENT, ACCELERATION FACTOR, OR COST REDUCTION, WHICH DEPEND, AMONG OTHER THINGS, ON CUSTOMER'S WORKLOADS, DATA, CONFIGURATIONS, AND CLOUD ENVIRONMENT, AND ANY PERFORMANCE FIGURES OR BENCHMARK RESULTS PUBLISHED OR PROVIDED BY DUAL BIRD ARE ILLUSTRATIVE ONLY AND DO NOT CONSTITUTE A WARRANTY OR COMMITMENT. EXCEPT FOR THE LIMITED WARRANTY IN SECTION 6.3, THE SERVICES (INCLUDING THE ACCELERATOR), ANY BETA FEATURES, THEIR COMPONENTS, THE SUPPORT SERVICES, AND THE PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER DUAL BIRD NOR ANY OF ITS LICENSORS AND SUPPLIERS MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS; HOWEVER, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY STATUTORILY REQUIRED WARRANTIES SHALL BE LIMITED AS PROVIDED HEREIN. DUAL BIRD SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES AND OTHER PROBLEMS INHERENT IN USE OF THE INTERNET, ELECTRONIC COMMUNICATIONS, CLOUD ENVIRONMENT, OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF DUAL BIRD.

7. LIMITATION OF LIABILITY; INDEMNIFICATION.

- 7.1. **Liability Exclusion.** SUBJECT TO SECTION 7.3, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM SUCH OTHER PARTY'S RIGHTS) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND, OR FOR ANY LOSS OF DATA OR INFORMATION, LOST REVENUES OR PROFITS, LOSS OF USE, LOSS OF GOODWILL OR REPUTATION, OR LOSS OF BUSINESS OPPORTUNITY WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR ANY OTHER LEGAL THEORY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY APPLICABLE ORDER FORM, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.
- 7.2. **Limitation of Damages.** SUBJECT TO SECTION 7.3, EACH PARTY'S MAXIMUM LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY APPLICABLE ORDER FORM, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY, OR OTHERWISE), WILL NOT EXCEED THE AGGREGATE AMOUNT OF THE FEES PAID AND PAYABLE TO DUAL BIRD BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM ARISES.
- 7.3. **Exceptions.** NOTWITHSTANDING THE FOREGOING, THE EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN SECTION 7.1 AND SECTION 7.2 SHALL NOT APPLY TO: (i) A PARTY'S WILLFUL MISCONDUCT, OR FRAUD; OR (ii) CUSTOMER'S FAILURE TO PAY ANY SUMS DUE HEREUNDER OR BREACH OF SECTION 3.5 (RESTRICTIONS ON USE).
- 7.4. **IP Indemnification.** Dual Bird shall defend Customer against any third-party claim alleging that the Services (including the Accelerator), when used by Customer in accordance with this Agreement, the applicable Order Form, and the Documentation, infringe such third party's intellectual property rights, and shall indemnify Customer against the damages, costs, and reasonable attorneys' fees finally awarded against Customer by a court of competent jurisdiction, or agreed in a settlement approved by Dual Bird in writing, in respect of such claim; provided that Customer: (i) promptly notifies Dual Bird in writing of the claim; (ii) grants Dual Bird sole control of the defense and settlement of the claim, provided that any settlement fully releases Customer and does not impose any obligation on Customer without its consent; and (iii) provides Dual Bird, at Dual Bird's expense, with reasonable cooperation and assistance. If the Services (or any part thereof) become, or in Dual Bird's opinion are likely to become, the subject of an infringement claim, Dual Bird may, at its option and expense: (a) procure for Customer the right to continue using the Services; (b) modify or replace the Services (or the affected part thereof) so that they become non-infringing without material loss of functionality; or (c) if neither (a) nor (b) is commercially practicable, terminate the affected Order Form and refund to Customer any prepaid Fees covering the remainder of the Subscription Term following the effective date of such termination. Dual Bird shall have no obligation under this Section 7.4 to the extent a claim arises from: (1) Customer Data; (2) use of the Services in breach of this Agreement or the Documentation, or in combination with any software, hardware, data, or processes not provided or approved by Dual Bird, where the claim would not have arisen but for such use or combination; (3) any modification of the Services or the Accelerator not made by or on behalf of Dual Bird; (4) Customer's continued use of the affected Services after Dual Bird has made available a non-infringing alternative; or (5) any open-source component, to the extent the claim arises from Customer's failure to comply with the applicable open-source license. THIS SECTION 7.4 STATES DUAL BIRD'S ENTIRE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

8. FEES AND PAYMENT.

- 8.1. **Fees; Taxes.** Fees and any applicable additional charges are due and payable as further described in the applicable Order Form and/or the Documentation. "**Fees**" means usage-based metered charges, fixed charges (if any), and any other charges incurred in connection with Customer's access to and use of the Services, in each case as specified in the applicable Order Form. "**Expenses**" means reasonable, documented, out-of-pocket

expenses incurred by Dual Bird in connection with the Services or any Professional Services and approved in advance by Customer. The Fees, the Expenses and any charges payable under this Agreement are exclusive of all taxes, levies, or duties imposed by any governmental authority, including, without limitation, federal, provincial, state, local, sales, use, value-added, goods and services, harmonized, excise, service, or withholding taxes (collectively, "**Taxes**"), other than taxes based on Dual Bird's net income, property, franchise, or employee. If any such Taxes are applicable, they will be separately stated on Customer's invoice and paid by Customer. Customer shall provide any applicable direct pay permits or valid tax-exempt certificates prior to execution of this Agreement. If applicable law requires Customer to withhold or deduct any Taxes from payments due to Dual Bird under this Agreement, the Fees and charges shall be grossed up so that Dual Bird receives the full amount it would have received absent such withholding or deduction.

- 8.2. **Payments.** Dual Bird will invoice Customer for the Fees, charges and any applicable Taxes in accordance with the applicable Order Form. Unless otherwise specified in the applicable Order Form, usage-based Fees will be invoiced monthly in arrears based on usage metering. All amounts are due and payable in accordance with the payment terms set forth in the applicable Order Form. All amounts due under this Agreement shall be paid by wire transfer or such other payment method as may be agreed by Dual Bird in writing. If Dual Bird accepts payment via credit card, Customer hereby authorizes Dual Bird to charge the credit card on file for the Fees, charges, applicable Taxes, and Expenses, if any, in accordance with this Section. Customer further authorizes Dual Bird to use a third-party payment processor and consents to the disclosure of Customer's billing information to such third party. Customer shall promptly update credit card information if the credit card on file becomes invalid.
- 8.3. **Late Payments.** In the event that any invoiced amount is not received by Dual Bird by the due date as set forth in Section 8.2, then without limiting our rights and remedies, Dual Bird may: (i) charge interest on the outstanding balance (at a rate of one and a half percent (1.5%) per month or the maximum rate permitted by applicable law); (ii) condition future provision of Services on payment terms shorter than those specified in the applicable Order Form; (iii) suspend the use of the Services; and/or (iv) terminate this Agreement in accordance with and pursuant to Section 9.2, at Dual Bird's sole discretion. Customer will promptly reimburse us for any reasonable expenses of collection, including costs, disbursements, and reasonable outside legal fees Dual Bird incurs, to the extent necessitated by Customer's refusal to pay any invoiced amounts that Customer is not disputing in good faith.
- 8.4. **Non-Refundable.** Unless otherwise expressly provided for in this Agreement, all amounts paid under this Agreement are non-refundable.
- 8.5. **No Contingency for Future Commitments.** Customer agrees that payment of the Fees under this Agreement is not contingent on the delivery of any future functionalities, or features, or any other future commitments for the Services.

9. TERM AND TERMINATION.

- 9.1. **Term.** Unless otherwise set forth in the applicable Order Form, the initial subscription term of this Agreement shall commence on the Effective Date for a period of twelve (12) months (the "**Initial Subscription Term**"). Upon expiration of the Initial Subscription Term, this Agreement will automatically renew for successive one (1) year renewal terms (each, a "**Renewal Subscription Term**" and collectively, with the Initial Subscription Term, the "**Subscription Term**"), unless either Party notifies the other Party of its intent to not renew at least thirty (30) days prior to the expiration of the then-current Subscription Term.
- 9.2. **Termination.** Either Party may terminate this Agreement and any Order Forms: (i) for convenience upon thirty (30) days' notice to the other Party at any time and for any reason; (ii) upon fourteen (14) days' notice to the other Party if the other Party breaches a material term of this Agreement, any Order Form, and the breach

remains uncured at the expiration of such 14 day period; or (iii) immediately, if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, liquidation, or assignment for the benefit of creditors.

- 9.3. **Suspension.** Dual Bird may, upon written notice, suspend Customer's access to and use of the Services, in whole or in part, if: (i) any undisputed invoiced amount due under this Agreement is past due; (ii) Customer or any Authorized User breaches any material provision of this Agreement, including any restrictions on use of the Services or the Accelerator; (iii) Customer's use of the Services poses a security risk to the Services, Dual Bird, or any third party, or could adversely impact the integrity, availability, or performance of the Services; (iv) Dual Bird reasonably determines that suspension is required to comply with applicable law, regulation, or a binding order of a governmental authority; or (v) Customer's use of the Services exceeds applicable usage limits or materially deviates from agreed usage parameters and such excess or deviation is not promptly remedied. During any period of suspension, Customer shall remain responsible for all applicable Fees and charges. If Customer's use of the Services is suspended for non-payment, Dual Bird may charge a re-activation fee to reinstate Customer's use of the Services.
- 9.4. **Effect of Termination.** Upon termination of this Agreement (i) Dual Bird will cease providing the Services, and Customer, along with any Authorized Users, will discontinue all access to and use of the Services, including the Accelerator; and (ii) Customer will promptly pay all unpaid Fees, charges, Expenses, and applicable Taxes, if any due through the end of the Subscription Term. Upon termination or expiration, all rights and licenses granted to Customer in respect of the Services, including the Accelerator, will immediately and automatically terminate, and Customer must promptly (and in any event within ten (10) days) permanently delete and uninstall all copies of the Accelerator, including all components and partial copies, from all systems and devices under Customer's control, and, upon Dual Bird's written request, certify in writing (email sufficient) that Customer has completed such deletion and uninstallation and provide supporting evidence thereof certified by an officer of the Customer. Any use or retention of the Accelerator, or any portion thereof, after such period constitutes a material breach of this Agreement and an infringement of Dual Bird's intellectual property rights.
- 9.5. **Survival.** The following provisions will survive termination of this Agreement: Section 1 ("Definitions"), Section 3.5 ("Restrictions on Use"), Section 4 ("Intellectual Property"), Section 5 ("Confidentiality"), Section 6.4 ("Our Disclaimer"), Section 7 ("Limitation of Liability; Indemnification"), , Section 8 ("Fees and Payment"); Section 9.4 ("Effect of Termination"), this Section 9.5 ("Survival"), and Section 10 ("General Provisions").

10. GENERAL PROVISIONS.

- 10.1. **Assignment.** Neither Party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior, written consent of the other Party; provided, however, that either Party may, upon written notice to the other Party, assign or otherwise transfer this Agreement: (i) to any of its Affiliates; or (ii) in connection with a change of control transaction (whether by merger, consolidation, sale of equity interests, sale of all or substantially all assets, or otherwise). Any assignment or other transfer in violation of this Section will be null and void. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties hereto and their permitted successors and assigns. It is hereby clarified that any assignment by the Customer that may result in a change of any nature to the scope of the Services will require Dual Bird's prior written consent.
- 10.2. **Amendment; Waiver.** Except for updates by Dual Bird as expressly set forth in the preamble to this Agreement, this Agreement may be amended or modified only in a writing signed by authorized representatives of both Parties (including by execution of an Order Form). No failure or delay by either Party in exercising any right or remedy under this Agreement will operate, or be deemed to operate, as a waiver of any such right or remedy, and no waiver will be effective unless made in writing.

- 10.3. **Governing Law and Venue.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule. Each Party hereby irrevocably and unconditionally submits to the exclusive jurisdiction of the state and federal courts located in the State of Delaware for any legal action or proceeding arising out of or relating to this Agreement, and agrees that any such action or proceeding shall be brought exclusively in such courts.
- 10.4. **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be deemed given: (i) when delivered personally; (ii) when sent by email to the notice addresses specified in the applicable Order Form (with confirmation of transmission); or (iii) one (1) business day after being sent by nationally recognized overnight courier (in each case properly addressed to the applicable notice address specified in the applicable Order Form). Notices sent by email shall be deemed received on the date sent if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours. Either Party may update its notice address by notice to the other Party in accordance with this Section.
- 10.5. **Independent Contractors.** The Parties are independent contractors. Neither Party will be deemed to be an employee, agent, partner, joint venture, or legal representative of the other Party for any purpose, and neither Party will have any right, power, or authority to obligate the other Party.
- 10.6. **Severability.** If any provision of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, that provision will be amended to achieve as nearly as possible the same economic effect as the original provision, and the remainder of this Agreement will remain in full force and effect. Any provision of this Agreement, which is unenforceable in any jurisdiction, will be ineffective only as to that jurisdiction, and only to the extent of such unenforceability, without invalidating the remaining provisions hereof.
- 10.7. **Force Majeure.** Neither Party will be deemed to be in breach of this Agreement for any failure or delay in performance to the extent caused by reasons beyond its reasonable control, including, but not limited to, acts of God, acts of any governmental body, war, insurrection, sabotage, armed conflict, terrorism, embargo, fire, flood, strike or other labor disturbance, quarantine restrictions, freight embargoes, unavailability of or interruption or delay in telecommunications or third-party services, or virus attacks or hackers (collectively, “**Force Majeure Event**”). When such Force Majeure Event arises, either Party shall notify the other immediately in writing of its failure to perform, describing the cause of failure and how it affects performance, and the anticipated duration of the inability to perform. For the avoidance of doubt, nothing in this Section 10.7 shall be construed to excuse any payment obligations hereunder.
- 10.8. **Third-Party Beneficiaries.** The Parties agree that there are no third-party beneficiaries under this Agreement.
- 10.9. **Publicity.** Customer grants Dual Bird the right to use its name and logo to identify it as a customer and user of Dual Bird’s services in marketing materials, PR, presentations, on its website, at industry events and conferences.
- 10.10. **Complete Understanding.** This Agreement together with all linked exhibits and schedules referred to, constitutes the final and complete agreement between Customer and Dual Bird regarding the subject matter hereof, and supersedes any prior or contemporaneous communications, representations, or agreements between us, whether oral or written; provided, however, that any confidentiality or non-disclosure agreement previously entered into between the Parties shall continue to apply to information disclosed prior to the Effective Date, to the extent it provides broader protection than this Agreement.
- 10.11. **Equitable Relief.** Customer acknowledges that any actual or threatened breach of Section 3.5 (Restrictions on Use) or Section 5 (Confidentiality), or any unauthorized use, copying, or retention of the Accelerator, may cause Dual Bird irreparable harm for which monetary damages would be an inadequate remedy, and Dual Bird shall be entitled to seek injunctive or other equitable relief in any court of competent jurisdiction, in addition to all other rights and remedies available to it, without any requirement to post a bond or prove actual damage.
- 10.12. **Compliance with Laws; Export Control.** Each Party shall comply with all Applicable Laws in connection with its performance under this Agreement. Customer acknowledges that the Services and the Accelerator may be

subject to export control and sanctions laws and regulations of the United States, Israel, and other applicable jurisdictions, and Customer shall not (and shall not permit any Authorized User to) access, use, export, re-export, or transfer the Services or the Accelerator in violation of any such laws or regulations, including to or for the benefit of any sanctioned or embargoed person, entity, or territory. Customer represents and warrants that neither it nor any Authorized User is subject to any such sanctions.
