



## MASTER SUBSCRIPTION AGREEMENT

*Published February 2025*

These license terms ("Agreement"), as updated from time to time, become automatically binding on you when you access any services (including any software and/or related documents) or download any software (and/or related documents) from this website. They create a legal agreement between you (Customer or you) and Astronomer, Inc. of 50 West 23rd Street, Suite 1400 New York, NY 10010 (Astronomer, we or us) for the services that you access and/or any software that you download.

This Agreement supersedes any other agreement (including any click-through or electronic agreements) between Astronomer and Customer with respect to the Solution (as defined below). This Agreement governs each Order Form unless the parties expressly agree otherwise in writing and the terms and conditions of this Agreement will prevail over any Order Form (as defined below), unless an Order Form expressly states that it varies one or more terms of this Agreement. Any modification will apply only to that Order Form.

### 1. DEFINITIONS

**"Affiliate"** means any entity that Customer, directly or indirectly, controls; an entity that controls Customer; or an entity that is under common control with Customer. For the purposes of this definition, "control" means at the relevant time, the direct or indirect power to direct or cause the direction of the management or policies of an individual or entity or the composition of its board of directors (or equivalent), whether through the ownership of voting securities, by contract or otherwise.

**"Hosted Products"** means the software products listed in the Order Form which Astronomer makes available to Customer in SaaS form to be accessed and used by the Customer during the Subscription Term.

**"Consumption Limit"** means the limit on Customer's use of the Solution (including in specified environments), which is equal to the amount of consumption credits applied to the Customer's use of the Solution, as stated in the Order Form.

**"Customer Data"** means all data, records, files, information, and content uploaded by or on behalf of Customer to the Solution.

**"Documentation"** means the documentation and user guides provided by Astronomer in the following link: <https://docs.astronomer.io/>.

**"Fees"** means the fees payable by the Customer to Astronomer for the Solution, as set out in the Order Form and varied in accordance with this Agreement.

**"Intellectual Property Rights"** means patents, utility models, rights to inventions, copyright and neighboring and related rights, all other rights in the nature of copyright, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**"Order Form"** means an order form, a statement of work, or another similar document, executed on behalf of each of the parties, which describes the Solution, Support, Subscription Term, Fees, and, if applicable, any Professional Services.

**"Professional Services"** means professional consulting and specialized support purchased by Customer pursuant to the applicable Order Form and relating to training and assistance with installation, deployment, or usage of the Solution.

**"Software"** means the software products listed in the Order Form which Astronomer will make available to Customer in downloadable form to be run by Customer in Customer-controlled environments during the Subscription Term. Customer-controlled environments may include Customer managed public cloud, Customer's private cloud, and on Customer premises.

**"Solution"** means Astronomer's proprietary software products listed in the Order Form, whether made available as Hosted Products or Software, including the Support listed in the Order Form, together with the Documentation.

**"Subscription Term"** means the term during which Customer is granted the right to access and use the Solution in accordance with this Agreement and the relevant Order Form, as defined in Section 9.1.

**"Support"** means the maintenance and support services to be provided by Astronomer to the Customer at the level specified in the Order Form.



**“Usage Data”** means usage and operations data in connection with the Customer’s use of the Service, including query logs and metadata (e.g., object definitions and properties).

**“Users”** means those of the Customer’s employees and contractors who are authorized by Customer to access and use the Solution.

**2. LICENSE GRANT.** Astronomer grants the Customer and, subject to Section 3.4, its Affiliates, for the Subscription Term and subject to and in accordance with the terms of this Agreement, a worldwide, non-exclusive, non-transferable, non-sublicensable license to: (i) download, install, host and/or run, where the Solution is made available as Software; or (ii) access and use, where the Solution is made available as Hosted Products, the Solution subject to the Consumption Limits, for its internal business use and for the purpose described in the Documentation. Astronomer will provide Customer with the Support and Professional Services, if applicable, as set forth in the Order Form and, for Hosted Products, in accordance with the Service Level Addendum (<https://www.astronomer.io/legal/sla/>).

### **3. CUSTOMER RESPONSIBILITIES AND ASTRONOMER’S RIGHTS**

**3.1. Customer Responsibilities.** Customer shall be responsible for obtaining, paying for, maintaining, and securing any equipment, facilities, and cloud services needed for Customer: (i) where the Solution is made available as Software, to download, install, host and run the Software; or (ii) if the Solution is made available as Hosted Products, to connect to the Solution, and (iii) whether the Solution is made available as Software or Hosted Products, to upload the Customer Data to the Solution and access and use the Solution, as specified in the applicable Documentation. Customer is solely responsible for ensuring its Users comply with this Agreement, each Order Form, and the Documentation, as well as for configuring and using the Solution correctly. If Customer is utilizing Software, Customer agrees to provide additional information and reporting as Astronomer may reasonably require from time to time in relation to Customer’s use of the Solution, to ascertain whether the Customer’s use is within the terms set forth in the Order Form.

**3.2. Restrictions.** Customer shall not and shall not permit any User or third party to, except as permitted under this Agreement: (a) create accounts for, or access or use the Solution other than in accordance with the Documentation; (b) share account log in information relating to an individual User of the Solution; (c) attempt to copy (other than to the extent reasonably necessary for backup purposes where the Software is provided as Software), modify, translate, create derivative works from, or distribute any part of the Solution; (d) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human perceivable form any part of the Solution, except to the extent the law in Customer’s jurisdiction permits this for the purposes of integrating the operation of the Solution with the operation of other software or systems used by Customer, provided that with respect to this Section 3.2(d), before carrying out such action, Customer shall give Astronomer no less than 30 days’ written notice and the exception will not apply if Astronomer is prepared to carry out such action at a reasonable commercial fee or provides the information necessary to achieve such integration within a reasonable period; (e) access any part of the Solution in order to build a competing product or service; (f) use the Solution to provide services to third parties or allow third parties (other than Users) to access and/or use the Solution; (g) license, lease, transfer, assign, disclose, or otherwise commercially exploit the Solution; or (h) modify any proprietary rights notices that appear in the Solution.

**3.3. Deletion of Customer Data and Suspension of Access.** Astronomer may delete Customer Data or temporarily suspend any or all access to Hosted Products at any time: (i) immediately without notice if Astronomer reasonably suspects that (a) Customer has violated any of the obligations under Section 3.2 (Restrictions), Section 4.1.2 (Customer Responsibility for Customer Data and Use of the Solution), or Section 13 (Applicable Laws) and/or (b) Customer is using the Solution in a manner that is or may cause material harm to the security of the Solution, Astronomer or to any other party; or (ii) if Customer fails to pay undisputed Fees within 5 business days after receiving notice that Customer is delinquent in payment. Astronomer will make reasonable efforts to notify Customer before any suspension and will work with Customer to resolve the issue. Astronomer will restore Customer’s access as soon as the reason for suspension is resolved.

**3.4. Affiliates.** Affiliates may use the Solution for the same purposes permitted for Customer under this Agreement provided that: (a) Affiliates shall not be entitled to bring a claim against Astronomer and only the Customer may bring actions against Astronomer for any losses, damages, costs, expenses or other liabilities suffered or incurred by any Affiliate in relation to the Solution or this Agreement; (b) Customer shall procure that no Affiliate commences or maintains any claim against Astronomer for any matter arising in connection with the Solution and/or this Agreement (whether for breach of contract, in tort or any other legal theory); and (c) Customer shall procure that all Affiliates comply with the terms of this Agreement and Customer shall remain liable for all acts and omissions of its Affiliates.

### **4. CUSTOMER DATA, USE OF THE SOLUTION, SECURITY AND PROCESSING**

#### **4.1. Customer Data.**



**4.1.1. License to Customer Data.** Customer grants Astronomer a non-exclusive, worldwide, royalty-free right to process the Customer Data solely for the purpose of providing the Solution to Customer during the Subscription Term. Customer warrants and represents that it has all necessary rights and permissions to provide the Customer Data to Astronomer and to grant Astronomer the license in this section.

**4.1.2. Customer Responsibility for Customer Data and use of the Solution.** Customer shall not transmit illegal, fraudulent, or infringing Customer Data or use the Solution in a way that disrupts or compromises its security, integrity, or availability. Customer is solely responsible for (a) the legality of Customer Data; (b) ensuring compliance with all laws applicable to the collection and provision of Customer Data and use of the Solution, including but not limited to, not using the Solution in a manner which threatens, incites, promotes, or actively encourages violence, terrorism, or other serious harm; and (d) not importing or allowing others to import into the Solution any trojan horse, worm, virus or other code which does not serve a legitimate purpose, and which is designed to be destructive, disabling or harmful or enables unauthorized access to, disclosure or corruption of information or software (including any Customer Data containing any of the foregoing).

**4.1.3. Customer Proprietary Rights.** Customer owns and retains all rights, title, and interest in and to the Customer Data and all intellectual property rights related to the foregoing. Astronomer shall not use the Customer Data for any purpose other than as expressly permitted in this Agreement. All rights not expressly granted in and to the Customer Data are reserved by Customer.

**4.2. Security and Data Processing.** Each party shall comply with its obligations under the Data Processing Addendum (<https://www.astronomer.io/legal/dpa>), as applicable, which is hereby incorporated by reference. Astronomer will use appropriate administrative, physical, and technical safeguards designed to prevent unauthorized access to, use or disclosure of, Customer Data, as more fully described in the Security Addendum (<https://www.astronomer.io/legal/security>).

**4.3. Usage Data.** Notwithstanding anything to the contrary in this Agreement, applicable only to Hosted Product, Astronomer may collect and use Usage Data to develop, improve, support, and operate its products and services. Astronomer may not share any Usage Data that includes Customer's Confidential Information with a third party except (a) in accordance with Section 7 (Confidentiality) of this Agreement, or (b) to the extent the Usage Data is aggregated and anonymized such that Customer and Customer's Users cannot be identified.

**5. PROFESSIONAL SERVICES.** Unless otherwise agreed in an Order Form, if Astronomer performs Professional Services (e.g., providing guidance on configuring the Solution) it shall own and retain all rights, title, and interest in and to anything it produces, develops or creates while providing the Professional Services ("**Products of the Professional Services**"). Subject to the terms of this Agreement Astronomer hereby grants Customer a limited, non-exclusive, royalty-free, non-transferable, worldwide license to use the Products of the Professional Services, solely in connection with Customer's use of the Solution for its internal business purposes, in accordance with this Agreement and the Documentation, during the Subscription Term.

**6. RIGHTS IN THE SOLUTION AND FEEDBACK.** Astronomer and its licensors own and retain all rights, title, and interest in and to the Solution and the Documentation, including all improvements, enhancements, or modifications thereto and any software, applications, inventions, or other technology used in connection with providing the Solution, the Professional Services and the Documentation. Customer is under no duty to provide any suggestions, enhancement requests, or other feedback regarding the Solution ("Feedback"). If Customer or its Users choose to offer Feedback to Astronomer, Customer hereby grant Astronomer a perpetual, irrevocable, non-exclusive, worldwide, fully-paid up, sub-licensable, assignable license to incorporate the Feedback into the Solution, or otherwise use any Feedback solely to improve Astronomer's products and services, provided that such Feedback is used in a manner that is not attributable to the Customer. Customer irrevocably waives in favor of Astronomer any moral rights or equivalent rights in such Feedback pursuant to applicable copyright law. Astronomer acknowledges that any Feedback is provided on an "as-is" basis with no warranties of any kind.

## **7. CONFIDENTIALITY**

**7.1. Confidential Information.** "**Confidential Information**" means all non-public information disclosed by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") relating to the Disclosing Party's business (including, without limitation, trade secrets, computer software, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not) and information about the Disclosing Party's technology). Confidential Information does not include information that the Receiving Party can prove: (a) was generally available to the public through no improper action or inaction by the Receiving Party or its Affiliates or Representatives (as defined in section 7.3); (b) it knew or possessed without restriction prior to receiving the information from the Disclosing Party; (c) was rightfully disclosed to the Receiving Party by a third party without breach of any confidentiality obligation; or (d) was independently developed by the Receiving Party without use of or reference to the Confidential Information.

**7.2.** The Receiving Party must (a) protect and keep confidential the Disclosing Party's Confidential Information in accordance with the standard that it applies to its own confidential information, but in any case not less than a reasonable standard; (b) not disclose the



Disclosing Party's Confidential Information to any third party without the Disclosing Party's prior written consent, except as permitted herein; and (c) only use the Disclosing Party's Confidential Information in furtherance of its rights and obligations under this Agreement.

**7.3.** The Receiving Party may disclose Confidential Information to any of the Receiving Party's Affiliates, officers, employees, independent contractors, agents, professional advisors, and third-party auditors (each, a "**Representative**") as long as (a) the Representative has a need to know the Confidential Information in connection with the exercise by that party of its rights or the performance of its obligations under this Agreement; (b) the Representative has been informed of the confidential nature of the Confidential Information; (c) the Representative is obligated to protect the Confidential Information in a manner consistent with these terms; and (d) the Receiving Party remains responsible for the Representative's compliance with the terms of this Agreement.

**7.4.** The Receiving Party may disclose Confidential Information without the Disclosing Party's consent to the extent required by law or governmental authority. Before disclosing the Disclosing Party's information under this section, the Receiving Party must (a) notify the Disclosing Party (unless law prohibits the notice); (b) use reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order; and (c) to the extent permitted and reasonably possible, allow the Disclosing Party a reasonable opportunity to object to or limit the disclosure.

## **8. PAYMENT OF FEES**

**8.1. Fees.** Customer shall pay Astronomer the fees set forth in the Order Form pursuant to the payment terms contained therein. With respect to Order Form(s) entered into directly between Customer and Astronomer, except as otherwise specified in such Order Form(s): (a) all Fees owed to Astronomer will be paid in U.S. Dollars; (b) Fees for all prepaid committed Astronomer services will be invoiced in full upon execution of the applicable Order Form; and (c) all fees due in accordance with the Order Form for usage in excess of the Consumption Limits will be invoiced monthly in arrears. To the extent that Customer enters into an order with a third party reseller or accepts an order via a third party cloud service provider's marketplace, Customer payment terms will be as separately arranged with such third party, provided that if Customer fails to pay Fees to such third party when due, Astronomer may seek direct payment from Customer, in addition to exercising its rights for non-payment in accordance with this Agreement.

**8.1.1. Credit Card Payments.** Where applicable, Astronomer may utilize third party payment providers to process credit card payments ("**Payment Provider**"). Such Payment Provider's policies govern the processing of Customer's payment, and Customer must refer to those policies to determine its rights and liabilities. By providing credit card information to the Payment Provider, Customer authorizes Astronomer, through such Payment Provider, to immediately charge the Fees, when due, for Customer's use of the Solution during any applicable Subscription Term and for the Professional Services. Customer's failure to maintain its current credit card information or other alternative payment method may result in an interruption of Customer's use of the Solution.

**8.2. Non-Payment.** Invoices not paid by the due date (unless disputed in good faith by the Customer in accordance with this section) are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law (whichever is lower), provided that Astronomer has first notified Customer in writing that such invoice is overdue and Customer fails to make payment in full of such invoice within fifteen (15) days following receipt of Astronomer's written notice.

**8.3. Invoice Disputes.** If Customer has a reasonably good faith dispute, Customer shall notify Astronomer's support department at [support@astronomer.io](mailto:support@astronomer.io) within ten (10) days of the invoice date.

**8.4. Taxes.** Fees do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, or assessed by any jurisdiction, but excluding any taxes based on Astronomer's net income, property, or employees (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchase, receipt, access and use of the Solution and Professional Services. If Astronomer has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Astronomer will invoice Customer and Customer will pay that amount, unless Customer provides Astronomer with a valid tax exemption certificate authorized by the appropriate taxing authority. Taxes will not be deducted from payments to Astronomer, except as required by applicable law, in which case Customer will increase the amount payable as necessary so that, after making all required deductions and withholdings, Astronomer receives and retains (free from any liability for Taxes) an amount equal to the amount it would have received had no such deductions or withholdings been made. Upon Astronomer's request, Customer will provide to Astronomer its proof of withholding tax remittance to the respective tax authority. Where applicable, Customer will provide its VAT/GST Registration Number(s) on the Order Form to confirm the business use of the ordered services.

## **9. TERM AND TERMINATION**



**9.1. Term.** Customer shall have the right to access and use the Solution until any active Subscription Term has expired or the relevant Order Form is terminated pursuant to the terms of this Agreement. Customer's initial Subscription Term shall be as stated in the Order Form (the "**Initial Subscription Term**"), and thereafter will automatically renew at the end of the then current Initial Subscription Term for successive one (1) year terms (each a "**Renewal Subscription Term**" and collectively with the Initial Subscription Term, the "**Subscription Term**"), unless Customer or Astronomer provides forty-five (45) days' prior written notice that it does not wish the Order Form to renew.

**9.2. Termination of Agreement.** This Agreement will automatically terminate and cease to have any effect if there are no Order Forms with an active Subscription Term and the parties are not in discussions relating to any potential new Order Forms.

**9.3. Termination by Either Party.** Either party shall be entitled to terminate this Agreement and/or all or any Order Forms immediately upon written notice to the other party if: (a) the other party is in material breach of this Agreement and/or all or any Order Forms and such breach continues for a period of thirty (30) days after receipt of written notice from the non-breaching party describing such breach in reasonable detail; (b) immediately upon written notice if the other party becomes the subject of any bankruptcy proceeding or any other proceedings relating to insolvency, administration, liquidation or assignment for the benefit of some or all of its creditors, or enters into an agreement for the composition, extension, or readjustment of substantially all of its obligations. Under no circumstances may either party terminate this Agreement or any Order Form for convenience or for any reason other than as set forth in this Section 9.

**9.4. Termination by Astronomer.** Astronomer shall be entitled to immediately terminate this Agreement and/or all or any Order Forms upon written notice to the Customer where: (a) Astronomer has suspended the Customer's access to Hosted Products, as permitted under section 3.3 of this Agreement, and such access has not been reinstated within thirty (30) days from the date of the suspension; or (b) Astronomer believes that it is no longer legal to continue to operate its business, or to make available the Solution for use in, or access from, the country where Customer is using or accessing the Solution.

**9.5. Effects of Termination.** Upon expiration or termination of an Order Form for any reason: (a) all rights and licenses granted to Customer will immediately terminate and Customer will no longer be able to access or use the Solution; (b) where the Solution is made available as Software, Customer shall immediately destroy or return the Software (including all copies of it) in its possession or control and, in the case of destruction, certify to Astronomer that it has done so; and (c) any accrued rights, remedies, obligations or liabilities of the parties under that Order Form which existed at or before the date of termination, will not be affected. Upon expiry or termination of this Agreement for any reason: (a) all Order Forms also terminate or expire unless otherwise agreed in writing; (b) all sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, sections 6,7,8, this section 9.5 and sections 13 and 14; and (c) any accrued rights, remedies, obligations or liabilities of the parties under this Agreement which existed at or before the date of termination will not be affected. Where Customer terminates this Agreement and/or all or any Order Forms pursuant to Section 9.3 (a) or 9.4 (b), Astronomer shall, in relation to all Order Forms which are terminated, refund any Fees that have been paid by Customer in advance under those Order Forms and which relate to the period from the date of termination to the end of the Subscription Term.

## **10. WARRANTIES AND DISCLAIMER**

**10.1. Astronomer Warranty.** Astronomer warrants to the Customer that during the Subscription Term: (a) the Solution will operate in all material respects with the Documentation; (b) it will comply with all applicable laws in its provision of the Solution to the Customer; and (c) if applicable, the Professional Services will be provided in accordance with good industry practice, by appropriately qualified personnel using reasonable skill and care. If the Solution does not comply with this section, Astronomer shall use commercially reasonable efforts to correct any reproducible non-conformity. If it is unable to do so within thirty (30) days of written notice from Customer, Customer may terminate the license to the Solution and Astronomer shall refund any Fees that have been paid by Customer in advance which relate to the period from the date of termination to the end of the Subscription Term. Customer's rights in this section shall be Customer's sole and exclusive remedy in relation to any breach of section 10.1 (a).

**10.2. Exclusions from Astronomer Warranty.** The warranty in section 10.1 (a) will not apply to the extent any non-conformance is caused by: (a) Customer using the Solution in a manner which does not comply with this Agreement, any relevant Order Form, or the Documentation, including (without limitation) any use of the Solution with an application or in an environment other than as described in the Documentation; or (b) modifications made to the Solution that were not made by Astronomer, its authorized representatives or with the express written authorization of Astronomer. OTHER THAN AS PROVIDED IN THIS AGREEMENT, ASTRONOMER DOES NOT WARRANT THAT THE SOLUTION WILL BE UNINTERRUPTED OR ERROR FREE, NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOLUTION OR THE PROFESSIONAL SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SOLUTION AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND ASTRONOMER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.



**11. LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES. EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER UNDER OR IN CONNECTION WITH: (A) EACH ORDER FORM SHALL NOT EXCEED THE TOTAL AMOUNT PAID AND PAYABLE BY CUSTOMER TO ASTRONOMER IN THE PRIOR 12 MONTHS UNDER THAT ORDER FORM; AND (B) THIS AGREEMENT, SHALL NOT EXCEED THE TOTAL AMOUNT PAID AND PAYABLE BY CUSTOMER TO ASTRONOMER IN THE PRIOR 12 MONTHS UNDER ALL ORDER FORMS, IN EACH CASE WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Notwithstanding the foregoing, nothing in this Agreement will limit or exclude either party's liability for: (a) death or personal injury caused by its negligence; (b) gross negligence or willful misconduct; (c) any matter which by law may not be excluded or limited; and/or (d) in the case of Customer, for breach of section 3.2 (Restrictions), Section 4.1.2 (Customer Responsibility for Customer Data and use of the Solution), or payment of Fees.

## **12. INDEMNIFICATION OBLIGATIONS**

**12.1.** Astronomer will defend (at its own cost) Customer against (or at Astronomer's option settle) any third-party claim which asserts that the Solution (or any portion thereof) infringes any copyright, patent, trademark, trade secret or other intellectual property or proprietary right of that third party, and Astronomer shall indemnify the Customer in respect of all costs and damages finally awarded against Customer by a court of competent jurisdiction because of any such claim. This indemnification obligation will not apply: (a) if the Solution is modified by anyone other than Astronomer; (b) to the extent the claim would not have arisen if Customer had not combined or used the Solution with any non-Astronomer applications, code, or products; (c) in the event of continued use of an infringing version of the Solution after Astronomer has provided a non-infringing version; or (d) to the extent breach of this Agreement caused the infringement claim.

**12.2.** If Astronomer reasonably anticipates that the Solution is or may be subject to a third party claim, Astronomer may, at its discretion (i) obtain a license to continue using and making available the Solution, or (ii) modify the Solution so as to make it non-infringing, provided that there is no material reduction of functionality, or if (i) and (ii) are not commercially practicable, (iii) terminate the Customer's license to the Solution and refund to Customer any prepaid Subscription Fees which relate to the period following the date of termination.

**12.3.** Customer agrees to defend, at its cost, Astronomer against any third party claim arising from: (a) Customer's breach of the warranties provided by it in this agreement; (b) Customer's breach of its responsibilities in sections 3.2 (Restrictions) and/or 4.1.2 (Customer Responsibility for Customer Data and use of the Solution), and Customer shall indemnify Astronomer in respect of all costs and damages finally awarded against Astronomer by a court of competent jurisdiction because of any such claim.

**12.4.** A party's obligations above shall only apply if the indemnified party: (a) provides prompt written notice to the indemnifying party of the claim in respect of which it wishes to be indemnified ("Indemnification Claim") and (b) permits the indemnifying party to have full conduct over the defense or settlement of the Indemnification claim; (c) makes no admission of liability or fault in relation to the Indemnification Claim; and (d) provides all reasonable information and assistance to the indemnifying party in relation to the Indemnification Claim.

**12.5.** This indemnification obligation will be Astronomer's sole liability and Customer's sole remedy relating to or arising from a third-party intellectual property claim.

**13. APPLICABLE LAWS.** Each party shall comply with applicable laws in connection with its performance under this Agreement. Each party agrees to comply with all export and import laws and regulations, including without limitation, those of the United States, applicable to such party in connection with its respective provision or use of the Solution and any Professional Services under this Agreement. Customer represents and warrants that it will not (and will not permit any third parties to) access or use the Solution or the products of the Professional Services in violation of any applicable export embargo, prohibition, or restriction.

## **14. GENERAL**

**14.1. Assignment.** Neither party may assign this Agreement without the prior written approval of the other, which approval will not be unreasonably withheld or delayed, provided that either party may assign any of its rights and/or obligations herein to any of its Affiliates; or to any entity that acquires all or substantially all of its assets, subject to the assignee being in a position to discharge the obligations of the assignor. The terms of this Agreement and each Order Form will be binding on such party's successors and assigns.

**14.2. Severability.** If any provision of this Agreement is found to be unenforceable, invalid or illegal, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. If any invalid, unenforceable or illegal provision would be valid, enforceable, or legal if part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.





**14.3. Entire Agreement, Waiver and Modifications.** This Agreement, including all Order Forms, is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement. Each party acknowledges that, in entering into this Agreement and each Order Form, it has not relied on, and will have no right or remedy in respect of, any statement, representation, assurance, understanding or warranty (whether in writing or not) of any person (whether party to this Agreement, an Order Form, or not) other than as expressly set out in this Agreement or an Order Form. All waivers of this Agreement or any Order Form must be in writing and signed. Failure to enforce any right does not constitute a waiver, nor does an express waiver apply beyond its specific instance. From time to time, Astronomer may modify this Agreement. Unless otherwise specified by Astronomer, changes become effective for Customer upon renewal of the then-current Subscription Term or upon the effective date of a new Order Form after the updated version of this Agreement goes into effect. Astronomer will use reasonable efforts to notify Customer of the changes through communications via Customer's account, email or other means, and in any event continued use of any Solution after the updated version of this Agreement goes into effect will constitute Customer's acceptance of such updated version.

**14.4. Third Party Rights, Agency, Partnership, JV, Employment and Authority.** Unless it expressly states otherwise, neither this Agreement nor any Order Form gives rise to any rights for a third party to enforce any term of them. No agency, partnership, joint venture, or employment is created as a result of this Agreement or any Order Form, and neither party or any of its Affiliates has any authority of any kind to bind the other party or its Affiliates in any respect whatsoever.

**14.5. Notices.** All notices under this Agreement will be in writing and delivered by hand, next day recognized overnight delivery service, certified or registered mail (return receipt requested) or by email. Notices for Astronomer will be sent to Astronomer, Inc., 50 West 23rd Street, Suite 1400 New York, NY 10010 with copy via email to [legal@astronomer.io](mailto:legal@astronomer.io), unless Astronomer updates its address for notices in accordance with this section. Notices for the Customer shall be sent to the billing address for the Customer set out the Order Form, or the address for the Customer set out in this Agreement, unless Customer updates its address for notices in accordance with this section. Notices will be deemed to have been duly given: (a) when received, if delivered by hand; (b) the day after being sent, if sent for next day delivery by recognized overnight delivery service; (c) 3 business days after being sent for domestic and 5 business days after being sent for international, if sent by certified or registered mail, return receipt requested; and (d) when sent, if sent by email, provided that the email is sent within normal business hours in the place of receipt and provided that no error message, sender not available message or similar is received. If an email is sent outside normal business hours in the place of receipt, it will be deemed delivered at the start of the next business day. Either party may update its address for notices by serving notice on the other party in accordance with this section.

**14.6. Exclusion of Terms.** Neither the Uniform Commercial Code (UCC), the United Nations Convention on Contracts for the International Sale of Goods, nor the Uniform Computer Information Transactions Act (UCITA) will apply to this Agreement.

**14.7. Governing law and jurisdiction.** This Agreement and each Order Form shall be governed by the laws of the State of New York without regard to its conflict of law provisions. The parties agree to bring any action under or related to this Agreement and/or any Order Form exclusively in the courts located in New York, NY, and hereby consent to the jurisdiction of those courts for such purposes.

**14.8. Publicity.** Except as provided below, neither party will use any trade name, trademark, service mark, logo or commercial symbol, or any other proprietary rights of the other party or any of its Affiliates in any manner without prior written authorization of such use by the other party. Neither party will issue press releases or publicity relating to the other party, this Agreement or an Order Form, or reference the other party or its Affiliates in any press release, brochures, advertisements, client lists or other promotional materials, without the prior written permission of the other party. Notwithstanding the foregoing, Astronomer may use Customer's name and logo as part of a list of Astronomer clients, and Customer hereby grants Astronomer a limited, non-transferable, worldwide license to use Customer's name and logo for such purposes.

**14.9. Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement or an Order Form (except for a failure to pay Fees) if the delay or failure results from any cause beyond such party's reasonable control, including but not limited to, acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, public health emergencies (including pandemics and epidemics), acts or orders of government, acts of terrorism, or war.

**14.10. Conflicts.** The terms and conditions of this Agreement and each applicable Order Form are intended to complement each other. Any purchase orders or other online terms or documents issued or made available by Customer shall be deemed to be for Customer's convenience only and, notwithstanding acceptance of purchase orders or other documents by Astronomer, shall in no way change, override, or supplement this Agreement or any Order Form.

**14.11. Section Headings.** Section headings have been included in this Agreement for convenience only and are not to be considered part of, or to be used in interpreting this Agreement.



**14.12. Counterparts.** The parties may execute this Agreement and any Order Forms in counterparts, which together will constitute one and the same instrument. Each party represents that its signatory who signs this Agreement and any Order Forms is duly authorized by all necessary corporate or other appropriate action to sign and agree to this Agreement and those Order Forms on behalf of the Customer. A signature delivered by .pdf or other reliable form of electronic reproduction will be considered an original for purposes of any executed documentation.

## **15. LIMITED USE SOLUTIONS.**

**15.1. Limited Use Solutions.** Customer may receive access to Astro Hosted as a no-fee, trial, alpha, beta or early access offering (“Evaluation Software”) or as a limited pay as you go solution (“Pay-Go”, together with Evaluation Software “Limited Use Solutions”).

**15.2. Evaluation License.** Unless otherwise agreed, use of the Evaluation Software is only for Customer’s internal evaluation for 30-days from the date Customer is first granted access to the Evaluation Software (“Evaluation Term”). Customer agrees to provide feedback related to the Evaluation Software as reasonably requested by Astronomer. Customer grants to Astronomer, without charge, the fully paid-up, perpetual right to utilize such feedback for development of its business, products and services so long as such utilization does not identify Customer as the source of the feedback. Any results or projects generated by Customer using the Evaluation Software may only be used to evaluate the features and functions of the Evaluation Software and to decide whether to enter into license to use the Solution and not for any other purpose. Upon conclusion of the Evaluation Term, Customer shall cease use of the Evaluation Software and immediately destroy all results generated and projects created during its use of the Evaluation Software unless Customer is in active discussions with Astronomer in relation to the purchase of a license to the Solution. If Customer does not purchase a license to the Solution within three (3) months of the Evaluation Term ending, Customer shall immediately destroy all results generated and projects created during its use of the Evaluation Software. Astronomer shall be entitled to cancel Customer’s access to the Evaluation Software or modify the Evaluation Software at any time.

**15.3. Additional Terms.** No warranty, representation or guarantee is given by Astronomer in relation to the Limited Use Solutions and Astronomer shall not be obliged to provide Support in relation to the Limited Use Solutions. The Limited Use Solutions are subject to the terms of this Agreement unless otherwise modified in this section 15. Except for Customer’s breach of section 3.2 (Restrictions), Section 4.1.2 (Customer Responsibility for Customer Data and use of the Solution), and/or payment of Fees (if applicable), and subject to any liability which cannot be excluded by law, each party’s aggregate liability in connection with Astronomer’s provision and/or Customer’s use of any Limited Use Solutions shall not exceed \$25,000.