

End User License Agreement (EULA)

By and between

BLACKBIRD ApS
CVR number (Danish Company Register number 37 19 24 22)
Pakhus 48
Sundkaj 153.2
2150 Nordhavn
Copenhagen, Denmark
(in this EULA referred to as BB)

and

User's Company Name
CVR number / VAT number
Address
Address
Address
Country
(in this EULA referred to as the User)

1. Background

The User seeks to collect and analyze its production data. Towards this end, BB and the User have agreed that BB will collect the User's data using hardware developed by BB and purchased by the User, and software developed, owned and controlled by BB.

2. Definitions

- **Blackbird Cloud Service** is the cloud owned, operated and maintained by BB using a recognized international Cloud Service Provider (i.e. Amazon) responsible for receiving and processing data from the User's Factbirds® (installed anywhere in the world). It is a common cloud which is used by all BB customers.
- **EULA** means this End User License Agreement, including any amendments to this EULA from time to time.
- **Factbird®** is the box developed by BB, and purchased by the User from BB, that collects data and transmits the timestamped values to the Blackbird Cloud Service *via* the mobile network or WIFI.
- **Factbird® View** is the box developed by BB, and purchased by the User from BB, responsible for video processing before timestamped video is streamed to the cloud database. Factbird® View requires internet access over WIFI or ethernet. The type of camera is User and application specific.
- **Force Majeure Event** means an event, or a series of related events, that is outside the reasonable control of the Party affected, including failures of the internet, any public telecommunications network, mobile network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars, or outbreak of epidemic or pandemic disease, institution of quarantine or lock down, or other similar acts of governmental institutions.
- **License** means the license granted by BB to the User under this EULA.

- **Party and/or Parties** means BB or the User, or BB and the User, as the context may require.
- **BB Partner** means official sales and service representative of BB (acting in representatives own name). BB Partner is listed on the Blackbird website (www.blackbird.online).
- **Service and Support** means any service and support that BB provides to the User.
- **Software** means software cloud application developed, owned and controlled by BB which the User has access to through the Blackbird Cloud Service.
- **Upgrade** means all improvements in the Software made by BB that are made generally available to the User.
- **Use of Factbird[®] Out of Scope** means activities other than monitoring and analyzing a process by using the Factbird[®] hardware and the Software.

3. License

Subject to the terms and conditions of this EULA, BB hereby grants the User a non-exclusive, non-transferable right to use the Software for the User's own internal business operations. Further to the License, BB grants to the User the rights to the Service and Support, and Upgrade as described in Clauses 4 and 5 below.

For each license granted to User, BB will charge a License Fee per month and invoice to User half yearly as agreed on the offer provided by BB to User.

Payments due to BB under this Agreement will be made within thirty (30) days from invoice date.

BB has the right to adjust the License Fee. Adjustments will be communicated to User with three months' notice.

If agreed between BB and BB Partner, BB Partner will invoice License Fee, Hardware and Customization fees to User as agreed with User.

4. Services and Support

- *Service and Support:*

BB shall provide the User support (e-mail and phone) including:

- "Get-started" Support – start-up of the Factbird[®].
- "Hotline" Support – Basic technical and operational support/first contact for any trouble shooting.
- "Advanced" Support (e-mail, phone and on-site (within Denmark) – in Danish or English during normal working days from 9.00 to 16.30 Danish time).

The Service and Support is provided in Danish or English by e-mail, phone and on-site (within Denmark) during normal working days between 9.00 and 16.30 Danish time.

- *Service Level Agreement*

- BB undertake to respond to any Service and Support request made by the User within 4 hours of such request having been made by the User, during between 9.00 and 16.30 Danish time.

- In the event of a Service and Support request made by the User between 16.30 and 9.00 Danish time, BB shall respond to such Service and Support request by 12.00 Danish time
- Subject to the provisions of this EULA, BB expects a Software uptime of 99.9%. It is clarified that BB does not provide an uptime guarantee.
- *Storage of data, access to data and ownership of data:*
 - The User's data from its Factbird® will be stored in the Blackbird Cloud Service. BB will store data for a 3 year period unless otherwise agreed between BB and the User. As for video from the User's Factbird® View, if any, BB will store the videos for a 1 month period unless otherwise agreed between BB and the User.
 - Ownership of data and access to data: A User owns the data collected by using the User's Factbird® and the User can download a copy of the data at any time and for any reason, by using the download function on the Software.

- *BB access to User data*

BB will access the User's data on the Blackbird Cloud Service under the following circumstances:

- Service and Support to be provided by BB in accordance with this Clause 4;
- Customization in accordance with Clause 6 below;
- Upgrades in accordance with Clause 5 below; and
- To correct errors, test functions, update the Software and data structures.

BB has no right to use the User's data commercially.

5. Upgrade

During the term of the EULA, BB will maintain and upgrade the Software. Upgrades will be free of charges unless BB notifies the User that the User will be charged for the Upgrades-in which case the User can choose not to Upgrade, but continue with the License already in use.

6. Customization

BB will have the exclusive right to carry out any customization of the Software, as may be agreed upon between BB and the User.

7. IP Rights and Secure Code

The Software, including without limitation, its object code and source code and any and all Upgrades, whether provided to the User or not, is the sole property of BB. The User may not

exercise any rights, title and interest and the Software, including without limitation all intellectual property rights in and to the Software, except to the extent of the limited license to use as granted to the User under this EULA. This EULA is not an agreement of sale and no title, intellectual property rights or ownership rights to the Software are transferred to the User pursuant to this EULA. The User acknowledges and agrees that the Software and all ideas, methods, algorithms, formulae, processes and concepts used in developing or incorporated into the Software, all future upgrades and all other improvements, revisions, corrections, modifications, enhancements, releases in, of or to the Software, all derivative works based upon any of the foregoing and all copies of the foregoing are trade secrets and the exclusive property of BB.

The User is not allowed to reverse engineer the Software.

8. Termination

The User may terminate the EULA with a 1 months' notice to BB.

This EULA may be terminated by BB with 6 months' notice to the User.

9. Premature Termination

Any Party may give notice in writing to the others terminating this EULA with immediate effect, should any other Party commit any material breach of any of the terms of this EULA and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified of the breach.

Notice of termination with immediate effect may also be served in case any Party has a bankruptcy order made against it; or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation; or has an administrative receiver appointed over the whole or any part of its undertaking.

10. Liability, Limitations, Force Majeure

- BB will be responsible according to Danish law with the following limitations:
 - BB will not be responsible for any indirect losses, i.e. operating loss or loss of profit
 - BB will not be responsible for Use of Factbird® Out of Scope
 - BB will not be responsible for an amount that exceeds DKK 100.000

- The Party invoking a Force Majeure Event shall notify the other Parties in writing and without delay of the occurrence of the Force Majeure Event, and of the cessation thereof.

In case of the occurrence of a Force Majeure Event none of the Party can terminate this EULA nor claim any damages from the other Parties. However, if such Force Majeure Event lasts more than 90 days, any Party hereto shall be entitled to terminate this EULA by notice to the other Parties with immediate effect.

11. Non-assignment by the User

The User is not allowed to assign or transfer any or all of its rights under this EULA to a third party without written consent from BB.

12. Confidentiality

Each Party undertake that it will not at any time hereafter use, divulge or communicate to any person, except to its professional representatives or advisers or as may be required by law or any legal or regulatory authority, any confidential information concerning the business or affairs of the other Party which may have or may in future come to its knowledge and each Party shall use its reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

13. Change of terms and conditions to this EULA

- BB reserves the right to make updates and changes to the terms and conditions of this EULA.
- The User will be notified by e-mail or about updates and changes to this EULA.

14. Governing Law and Venue

- This Agreement shall be governed by and construed in accordance with Danish Law.
- Any dispute or claim arising out of or in connection with this EULA or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of Procedure of the Danish Institute of Arbitration (Copenhagen Arbitration). The member(s) of the Arbitration Tribunal shall be appointed by the Institute. The arbitral proceedings shall take place in Copenhagen, Denmark. The language of the arbitral proceedings shall be English unless otherwise agreed.

Place:

Date:

Blackbird Aps

Place:

Date:

User