IMPORTANT NOTICE – PLEASE READ AND AGREE BEFORE USING THE SOFTWARE.

This license agreement ("Agreement") is a legal agreement between you, whether an individual or entity ("you") and NVIDIA Corporation ("NVIDIA") and governs your use of the NVIDIA Parabricks software and materials provided hereunder (the "SOFTWARE").

This Agreement can be accepted only by an adult of legal age of majority in the country in which the SOFTWARE is used. If you are under the legal age of majority, you must ask your parent or legal guardian to consent to this Agreement.

If you don’t have the required age or authority to enter into this Agreement or if you don’t accept all the terms below, do not use the SOFTWARE.

You agree to use the SOFTWARE only for purposes that are permitted by this Agreement and any applicable law or regulation in the relevant jurisdictions.

1. License. Subject to the terms of this Agreement, NVIDIA grants you a non-exclusive, non-transferable license to install, use and make copies of the SOFTWARE for your use in systems with NVIDIA GPUs only:
   (1) for academic research or research by non-profit institutions, or
   (2) for licensees that don’t fit into (1), for development, test and evaluation purposes without use in production.

2. Limitations. The following license limitations apply to your use of the SOFTWARE:

2.1 You may not reverse engineer, decompile, or disassemble the SOFTWARE, nor attempt in any other manner to obtain source code of such SOFTWARE.

2.2 You may not modify or create derivative works of SOFTWARE.

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2.5 You agree that you will not sell, rent, sublicense, distribute, transfer, provide commercial hosting services, or otherwise make the SOFTWARE available to third parties.

2.6 You may not use the SOFTWARE in any manner that would cause it to become subject to an open source software license. As examples, licenses that require as a condition of use, modification, and/or distribution that the SOFTWARE be (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable.

2.7 You acknowledge that the SOFTWARE as delivered is not tested or certified by NVIDIA for use in connection with the design, construction, maintenance, and/or operation of any system where the use or failure of such system could result in a situation that threatens the safety of human life or results in catastrophic damages (each, a “Critical Application”). Examples of Critical Applications include use in avionics, navigation, autonomous vehicle applications, ai solutions for automotive products, military, medical, life support or other life critical applications. NVIDIA shall not be liable to you or any third party, in whole or in part, for any claims or damages arising from such uses. You are solely responsible for ensuring that any product or service developed with the SOFTWARE includes sufficient features to comply with all applicable legal and regulatory standards and requirements.

2.8 You agree to defend, indemnify and hold harmless NVIDIA and its affiliates, and their respective employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, fines,
restitutions and expenses (including but not limited to attorney’s fees and costs incident to establishing the right of indemnification) arising out of or related to products or services that use the SOFTWARE in or for Critical Applications, and for use of the SOFTWARE outside of the scope of this Agreement or not in compliance with its terms.

2.9 You may not replace any NVIDIA software components in the SOFTWARE that are governed by this Agreement with other software that implements NVIDIA APIs.

2.10 You may not distribute or disclose to third parties the results of benchmarking, competitive analysis, or regression or performance data relating to the SOFTWARE without the prior written permission from NVIDIA.

2.11 You may not use the SOFTWARE for the purpose of developing competing products or technologies or assisting a third party in such activities.

3. Authorized Users. You may allow employees and contractors of your entity or of your subsidiary(ies) to access and use the SOFTWARE from your secure network to perform the work authorized by this Agreement on your behalf. If you are an academic institution, you may allow users enrolled or employed by the academic institution to access and use the SOFTWARE as authorized by this Agreement from your secure network. You are responsible for the compliance with the terms of this Agreement by your authorized users. Any act or omission that if committed by you would constitute a breach of this Agreement will be deemed to constitute a breach of this Agreement if committed by your authorized users.

4. Pre-Release SOFTWARE. Any SOFTWARE versions identified as alpha, beta, preview or otherwise as pre-release may not be fully functional, may contain errors or design flaws, and may have reduced or different security, privacy, accessibility, availability, and reliability standards relative to commercial versions of NVIDIA software and materials. You may use pre-release SOFTWARE at your own risk, understanding that pre-release SOFTWARE is not intended for use in production or business-critical systems and NVIDIA may choose not to make available a commercial version of any pre-release SOFTWARE.

5. Services. NVIDIA may, at its option, sell or otherwise offer SOFTWARE services. If as part of services for the SOFTWARE NVIDIA makes available patches, workarounds or other updates to the SOFTWARE, they are deemed part of the SOFTWARE licensed to you as provided in this Agreement unless the updates are provided with their separate governing terms.

6. COMPONENTS UNDER OTHER LICENSES. The SOFTWARE may include NVIDIA or third-party components with separate legal notices or terms as may be described in proprietary notices accompanying the SOFTWARE. If and to the extent there is a conflict between the terms in this license and the license terms associated with a component, the license terms associated with the components control only to the extent necessary to resolve the conflict.

7. Termination. Either party may terminate this Agreement for convenience with prior written notice to the other party. This Agreement will automatically terminate without notice from NVIDIA if you fail to comply with any of the terms in this Agreement or if you commence or participate in any legal proceeding against NVIDIA with respect to the SOFTWARE. Upon any termination, you must stop using and destroy all copies of the SOFTWARE. All provisions of this Agreement will survive termination, except for the licenses granted to you.

8. Ownership. The SOFTWARE, including all intellectual property rights, is and will remain the sole and exclusive property of NVIDIA or its licensors. Except as expressly granted in this Agreement, (i) NVIDIA reserves all rights, interests, and remedies in connection with the SOFTWARE, and (ii) no other license or right is granted to you by implication, estoppel or otherwise. You agree to cooperate with NVIDIA and provide reasonably requested information to verify your compliance with this Agreement.

9. Feedback. You may, but you are not obligated to, provide suggestions, requests, fixes, modifications, enhancements, or other feedback regarding the SOFTWARE (collectively, “Feedback”). Feedback, even if designated as confidential by you, shall not create any confidentiality obligation for NVIDIA or its affiliates. If you provide Feedback, you hereby grant NVIDIA, its affiliates and its designees a non-exclusive, perpetual, irrevocable, sublicensable, worldwide, royalty-free, fully paid-up and transferable license, under your intellectual property rights, to publicly perform, publicly display, reproduce, use, make, have
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11. Limitations of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, (I) IN NO EVENT WILL NVIDIA BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY DAMAGES FOR THE COST OF PROCURING SUBSTITUTE GOODS OR LOSS OF PROFITS, LOSS OF REVENUES, LOSS OF USE, LOSS OF DATA OR LOSS OF GOODWILL ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, AND EVEN IF NVIDIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A PARTY’S REMEDIES FAIL THEIR ESSENTIAL PURPOSE, AND (II) NVIDIA’S TOTAL CUMULATIVE AGGREGATE LIABILITY FOR ANY AND ALL LIABILITIES, OBLIGATIONS OR CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED FIVE U.S. DOLLARS (US$5).

12. Governing Law and Jurisdiction. This Agreement will be governed in all respects by the laws of the United States and the laws of the State of Delaware, without regard to conflict of laws principles or the United Nations Convention on Contracts for the International Sale of Goods. The state and federal courts residing in Santa Clara County, California will have exclusive jurisdiction over any dispute or claim arising out of or related to this Agreement, and the parties irrevocably consent to personal jurisdiction and venue in those courts; except that either party may apply for injunctive remedies or an equivalent type of urgent legal relief in any jurisdiction.

13. No Assignment. NVIDIA may assign, delegate or transfer its rights or obligations under this Agreement by any means or operation of law. You may not, without NVIDIA’s prior written consent, assign, delegate or transfer any of its rights or obligations under this Agreement by any means or operation of law, and any attempt to do so is null and void.

14. Waiver. No failure or delay by a party to enforce any Agreement term or obligation will operate as a waiver by that party, nor prevent the enforcement of such term or obligation later.

15. Export. The SOFTWARE is subject to United States export laws and regulations. You agree to comply with all applicable U.S. and international export laws, restrictions and regulations, including the Export Administration Regulations (EAR) administered by the U.S. Department of Commerce and economic sanctions administered by the U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC). These laws include restrictions on destinations, end-users and end-use.

16. Government Use. The SOFTWARE is, and you will treat as being, “Commercial Items” as that term is defined at 48 CFR § 2.101, consisting of “commercial computer software” and “commercial computer software documentation”, respectively, as such terms are used in, respectively, 48 CFR § 12.212 and 48 CFR §§ 227.7202 & 252.227-7014(a)(1). Use, duplication or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions in this license pursuant to 48 CFR § 12.212 or 48 CFR § 227.7202. In no event shall the US Government user acquire rights in the SOFTWARE beyond those specified in 48 C.F.R. 52.227-19(b)(1)-(2).

17. Notices. Unless otherwise specifically stated in this Agreement, all notices, requests, consents and other communications, which are required or permitted under this Agreement, will be in writing to the address below and will be effective (i) upon receipt if by personal delivery, (ii) upon receipt if by certified or registered mail (return receipt requested), or (iii) one (1) day after it is sent if by next day delivery by a major commercial delivery service. If a party changes its address for notices, it will
provide notice of its new address to the other party as set forth in this section. Please direct your legal notices or other correspondence to NVIDIA Corporation, 2788 San Tomas Expressway, Santa Clara, California 95051, United States of America, Attention: Legal Department.

18. Force Majeure. Neither party will be liable during any period where an event or circumstance prevents or delays that party from performing its obligations under this Agreement and that event or circumstance: (i) is not within the reasonable control of that party and is not the result of that party’s negligence and (ii) cannot be overcome or avoided by that party using reasonably diligent efforts.

19. Entire Agreement. Regarding the subject matter of this Agreement, the parties agree that (i) this Agreement constitutes the entire and exclusive agreement between the parties and supersedes all prior and contemporaneous communications and (ii) any additional or different terms or conditions, whether contained in purchase orders, order acknowledgments, invoices or otherwise, will not be binding on the receiving party and are null and void. This Agreement may only be modified in a writing signed by an authorized representative of each party. If a court of competent jurisdiction rules that a provision of this Agreement is unenforceable, that provision will be deemed modified to the extent necessary to make it enforceable and the remainder of this Agreement will continue in full force and effect.

(v. September 29, 2022)