

SOFTWARE LICENSE AGREEMENT

This Software License Agreement (this “**Agreement**”) is dated as of [DATE] (the “**Effective Date**”) and is entered into between Denodo and Customer.

“ Denodo ”	Full legal name:	Denodo Technologies Limited
	Postal address:	
	Email address:	legal@denodo.com
“ Customer ”	Full legal name:	
	Postal address:	
	Email address:	

In consideration of the mutual promises and upon the terms and conditions set forth below, Denodo and Customer agree as follows:

1. Definitions

1.1. “**Affiliate**” means, with respect to an entity, any company, corporation, partnership or other entity that, now or hereafter, directly or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such entity, where “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such entity, whether through the ability to exercise voting power, by contract or otherwise, and in any event and without limiting the foregoing, any entity having the rights to more than 50% of the equity, ownership or voting rights for such entity shall be deemed to control such entity.

1.2. “**Applicable Data Protection Laws**” shall mean

1.2.1. The General Data Protection Regulation 2016/679 (“GDPR”) and

1.2.2. Any applicable non-European Union domestic legislation protecting individuals’ right to privacy and restricting international data transfers.

- 1.3. **"Confidential Information"** means any information disclosed by either party (and/or its Affiliates) to the other party while this Agreement is in effect, either directly or indirectly, whether in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, the Software, Documentation and the terms of this Agreement), which is designated as "Confidential," "Proprietary" or some similar designation or which would be reasonably understood to be confidential in nature. Confidential Information may also include information disclosed to a receiving party by third parties. Confidential Information will not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no wrongful action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; or (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession.
- 1.4. **"Controller", "Processor", "Sub-processor", "Processing", "Personal Data", "Special Categories of Personal Data", "Personal Data Breach", "Data Subjects", "Supervisory Authority", "Data Protection Impact Assessment"**, and any other related data protection terms, shall have the meaning given in Applicable Data Protection Laws.
- 1.5. **"Denodo"** for purposes of this Agreement "Denodo" may refer to Denodo Technologies Limited and any of its Affiliates.
- 1.6. **"Documentation"** means the user instructions, manuals or other materials, and on-line help files regarding the use of the Software that are generally provided by Denodo in connection with the Software.
- 1.7. **"Fees"** means License Fees and Service Fees.
- 1.8. **"Improvements"** means any and all Updates, Upgrades, Patches, modifications, enhancements, derivatives and corrections to the Software or Documentation, including changes and/or corrections made in response to Maintenance and Support requests, Professional Services, all additions, updates, new versions and new features, and changes made in response to legal, technological or other developments.
- 1.9. **"License Fees"** means the license-related fees set out in the applicable Order.
- 1.10. **"License Term"** shall have the meaning ascribed thereto in the applicable Order.
- 1.11. **"Maintenance and Support"** means the services described in Section 5.1 (Maintenance and Support Services).

- 1.12. **"Order"** means any order form, purchase order or statement of work executed by Denodo and Customer which references this Agreement.
- 1.13. **"Other Services"** means any training services, professional services or other services set out in the applicable Order but excluding Maintenance and Support services.
- 1.14. **"Patch"** means a Software release including security patches and important bug fixes.
- 1.15. **"Service Fees"** means the fees set forth in the applicable Order in respect of the provision of any of the Services.
- 1.16. **"Services"** means the Maintenance and Support and Other Services set forth in the applicable Order.
- 1.17. **"Software"** means the computer software programs set forth in the applicable Order, including all Improvements to which Customer may receive access.
- 1.18. **"Support Guide"** shall mean Denodo's then-current support policies, available on Denodo's support website (<https://support.denodo.com>).
- 1.19. **"Minor Version"** means a version of the Software containing functional enhancements, extensions, error corrections or fixes that are generally made available free of charge by Denodo from time to time and in its sole discretion, to customers that have contracted for Maintenance and Support.
- 1.20. **"Major Version"** means a new version of the Software containing outstanding features that may be offered by Denodo from time to time and in its sole discretion, to customers that have contracted for Maintenance and Support.
- 1.21. **"Users"** means those employees, contractors and/or agents of Customer who are entitled to access and use the Software pursuant to this Agreement. The Customer shall be responsible for any breach of this Agreement by any such Users.

2. Grant of License

- 2.1. **Grant.** Subject to the terms and conditions of this Agreement, including, without limitation, the restrictions in Section 3.2 (Additional Restrictions), Denodo hereby grants to Customer a nonexclusive, nonsublicenseable and nontransferable license during the License Term, allowing Customer and its Users to (a) use the Software for Customer's internal information processing services and computing needs, and (b) use the Documentation in connection with the licensed use of the Software. Customer acknowledges that Denodo will retain title to the Software and Documentation. Denodo hereby reserves all rights in and to the Software, Documentation, or any copyrights, patents, or trademarks, embodied or used in connection therewith, except for the rights expressly granted herein.

- 2.2. **Delivery.** The Software, including all Improvements thereto which Customer may be eligible to receive as provided otherwise in this Agreement, and the Documentation, will be made available to Customer by electronic transmission or download from Denodo, and no tangible medium containing the Software or the Documentation will be delivered to Customer. Customer acknowledges that no copy of the source code of the Software will be provided to Customer.
- 2.3. **Copies.** Customer may make a reasonable number of machine-readable copies of the Software in order to exercise the license in 2.1. Customer shall not copy the Software, except as permitted by this Agreement. Customer shall maintain accurate and up-to-date records of the number and location of all copies of the Software and inform Denodo in writing of such location upon Denodo's request. All backup copies of the Software or Documentation will be subject to all terms and conditions of this Agreement and shall be deemed Confidential Information of Denodo. Whenever Customer is permitted to copy or reproduce all or any part of the Software and/or Documentation, Customer shall reproduce and not efface any and all titles, trademark symbols, copyright symbols and legends, and other proprietary markings on the Software and/or Documentation.
- 2.4. **Re-Installation and Upgrades.** In the event that Customer requests new license key(s) in order to (i) re-install its current version of the Software, or (ii) install an Upgrade, then Customer agrees that (a) in no event will it use the original license key(s) and the replacement license key(s) concurrently for production purposes, and (b) it shall cease all use of the license key(s) corresponding to any earlier versions which have been replaced within one-hundred and eighty (180) days, or such other time as may be agreed by the parties.

3. Additional License Terms

- 3.1. **Non-Production Licenses.** To the extent set forth in the Order, Customer shall have access to the following license types during the License Term, each considered a "non-production" license. A non-production license may be used solely as set forth below and never for production or "run-time" use purposes. Notwithstanding anything to the contrary in this Agreement, any non-production license provided to Customer is provided on an "as is" basis with no warranty.
- 3.1.1. *Development License.* May be used for developing, testing and debugging and for obtaining interoperability between the Software and Customer's applications.
- 3.1.2. *Staging License.* May be used for testing the Software in an environment as similar to the production environment as possible and to simulate the run-time behavior of the Software under similar conditions then in current operation.
- 3.1.3. *Failover License.* May be used in combination with a production license for maintaining a ready-to-use copy of the software installed in production. It is designed to automatically take over operations if the production environment becomes unavailable.

- 3.1.4. *Disaster Recovery License*. May be used in combination with a production license solely for maintaining a standby environment to enable restoration of the Software in the event of a complete failover due to natural disaster (e.g., earthquake, flood, fire), infrastructure failures, cybersecurity incidents or network connectivity loss affecting the production environment. The Disaster Recovery License may also be used for limited testing of disaster recovery procedures, provided such testing does not involve normal production operations or ongoing business use. This license may not be used for "Planned Outages" or "Standard Operations," such as Software updates, patches, configuration changes, or the deployment of new data products.
- 3.1.5. *Evaluation License*. May be used for evaluation and demonstration of the Software in an environment as similar to the production environment as possible and to simulate the run-time behavior of the Software under similar conditions than in current operation when satisfying its own computing.
- 3.2. **Additional Restrictions**. Customer shall not itself, or through any parent, subsidiary, Affiliate, agent or other third party: (a) sell, lease, license or sublicense the Software or the Documentation; (b) decompile, disassemble, or reverse engineer the Software, in whole or in part (except to the extent that such restriction is not permitted under applicable law); (c) allow access to the Software by any person or entity that is not a User; (d) write or develop any derivative software or any other software program based upon the Software or any Denodo Confidential Information (except to the extent that such restriction is not permitted under applicable law); (e) use the Software on a "service bureau" basis; (f) provide to any third party the results of any benchmark tests or other evaluation of the Software without Denodo's prior written consent; or (g) use the Software for any illegal or fraudulent purposes.
- 3.3. **Beta Offerings**. Denodo may, in its sole discretion, make available pre-release versions, features, or functions identified as beta, preview, early access, or words or phrases with similar meanings ("**Beta Offerings**"), for the purpose of evaluating performance, identifying defects and obtaining feedback. Beta Offerings may be subject to additional terms and may not be maintained and/or become generally available. Customer may access and use Beta Offerings solely for internal evaluation purposes. Non-public information about a Beta Offering is deemed to be the Confidential Information of Denodo. Beta Versions are provided on an "as is" basis with no warranty.
- 3.4. **Feedback**. Customer may from time to time provide suggestions, comments for enhancements or functionality or other feedback ("**Feedback**") to Denodo with respect to the Software or Services. Denodo is free to use Feedback and Customer hereby grants to Denodo a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual, unrestricted and fully paid-up license to use, sell, reproduce, modify, distribute, disclose and otherwise commercially exploit the Feedback for any purpose. Denodo is not required to use any Feedback.
- 3.5. **Audit**. Denodo (or independent third-party auditors mutually agreed upon by the parties) shall have the right, upon reasonable prior written notice of at least thirty (30) days and no more often than once a year, to inspect and audit the Customer's relevant books, records, premises and equipment to determine

whether Customer is in compliance with its obligations under this Agreement, provided that any such audit shall not unreasonably interfere with Customer's business operations and shall be conducted at all times in compliance with Customer's applicable access and/or security requirements.

4. Fees

4.1. **Payment Terms.** In consideration of the license granted pursuant to Section 2.1 (Grant of License) and Services provided hereunder, Customer shall pay Denodo the Fees specified in the applicable Order. All amounts are due and payable in full no later than thirty (30) after the date of Denodo's invoice. License Fees shall be invoiced at the start of the relevant License Term. All other fees shall be invoiced as set forth in the Order. Any amounts not paid by the due date will be subject to interest of 1.5% per month, which interest will be immediately due and payable.

4.2. **Taxes.** All charges and fees provided for in this Agreement are exclusive of any taxes, duties, or similar charges imposed by any government. Customer shall pay or reimburse Denodo for all federal, state, dominion, provincial, or local sales, use, personal property, excise or other taxes, fees, or duties arising out of this Agreement, or the transactions contemplated by this Agreement (other than taxes on the net income of Denodo).

4.3. **Purchase through Reseller.** Customer may order the Software and/or Services through a third-party reseller authorized by Denodo. In such a case, this Agreement shall control all rights and obligations of the Parties hereunder with respect to the Software and Services, except for payment-related obligations and terms, which shall be governed pursuant to the agreements between Customer and reseller, and Denodo and reseller, respectively.

4.4. **Affiliate Use and Orders.**

4.4.1. *Affiliate Use.* Where an Affiliate of Customer has not entered into an Order or other separate agreement directly with Denodo, Customer may authorize that Affiliate to access and use the Software and/or Services under an existing Order between Customer and Denodo, in such cases references to "Customer" in the applicable Order and this Agreement will be deemed to reference both the Customer and the Affiliate. In the event that Customer permits access and use of the Software by an Affiliate: (i) Customer shall be responsible in all respects for such Affiliate's compliance with the terms and conditions of this Agreement and any Order, and (ii) in no event shall the foregoing right to permit access and use by Affiliates be deemed to require Denodo to provide licenses/Services in excess of the agreed upon Order, including, for the avoidance of doubt, providing additional Maintenance and Support regions.

4.4.2. *Purchases by Customer Affiliates.* Affiliates of Denodo and/or Customer may sell and/or purchase, respectively, Licenses and Services pursuant to this Agreement by executing an Order identifying such party. Any Customer Affiliate making such a purchase shall be entitled to all of the rights and benefits afforded to Customer under this Agreement and may enforce this Agreement

in its own name with respect to such Order as if the Agreement, in its entirety, had been executed by Denodo and that Customer Affiliate, where any reference to Customer shall also be read as a reference to that Customer Affiliate.

5. Services

5.1. **Maintenance and Support Services.** Denodo shall provide Maintenance and Support as specified in this Section 5.1 and in accordance with Denodo's then-current support policies ("**Support Guide**"), available on Denodo's support website ([https:// support.denodo.com](https://support.denodo.com)) and which are attached to the Order for informational purposes only.

5.1.1. *Maintenance and Support Definition.* Maintenance and Support means that Denodo will provide:

- (a) Major Versions, Minor Versions and Patches, if any, and appropriate Documentation; and
- (b) telephone and email assistance with respect to the Software, including (i) clarification of functions and features of the Software; (ii) clarification of Documentation pertaining to the Software; (iii) guidance in the operation of the Software; and (iv) error verification, analysis and correction.

5.1.2. *Eligibility of Software.* Maintenance and Support will not include services requested or provided in connection with the following, and any services so requested will be billed to Customer at Denodo's then-current rates:

5.1.2.1. accident; neglect; misuse; operation of the Software with other media not meeting or not maintained in accordance with the manufacturer's specifications; or causes other than ordinary use;

5.1.2.2. improper installation by Customer or use of the Software that deviates from any operating procedures established by Denodo in the applicable Documentation;

5.1.2.3. modification, alteration or addition or attempted modification, alteration or addition of the Software undertaken by persons other than Denodo or Denodo's authorized representatives; or

5.1.2.4. software or technology of any party other than Denodo.

5.1.3. *Responsibilities of Customer.* Denodo's Maintenance and Support obligations under this Agreement are subject to the following Customer responsibilities:

5.1.3.1. at Denodo's reasonable request and in response to a request for service from Customer, Customer shall provide Denodo with access to Customer's personnel and equipment during normal business hours under Customer supervision.

5.1.3.2. Customer shall provide reasonably detailed information regarding all errors or malfunctions of the Software to Denodo. Customer shall take such steps necessary to carry out procedures for the rectification of errors or malfunctions within a reasonable time after such procedures have been received from Denodo.

5.1.3.3. Customer shall reasonably train its personnel in the use and application of the Software and the equipment on which it is used.

5.1.3.4. Customer may install any and all Major Versions, Minor Versions and Patches provided by Denodo at its discretion, provided, however, that Denodo shall have no obligation to provide support under this Agreement in the event that Customer's service request can be corrected by the Customer installing the Major and/or Minor Versions to the Software, or if Customer's installed Software falls outside the General Support period (or Extended Support period, if applicable) outlined in the Support Guide.

5.2. **Other Services.** In the event that any Other Services are set forth in the Order then, subject to payment of the relevant fees, Denodo shall provide the Other Services as described in the Order.

6. Representations and Warranties

6.1. **Software Performance.** Denodo represents and warrants that the Software will perform in substantial accordance with the Documentation for a period of ninety (90) days after the date of the initial delivery of the Software. If during this time period the Software does not perform as warranted, Denodo shall, within a reasonable period of time, at its option, correct the Software or, replace such Software free of charge. If Denodo fails to correct or replace the Software within a reasonable period of time then Customer shall be entitled to return the Software and Denodo shall refund to the Customer a pro rata amount of the fees paid for such license, following which Denodo will have no further liability and Customer will have no other remedy in relation to the Software or the relevant defect. The foregoing are Customer's sole and exclusive remedies for breach of the foregoing warranty. The warranty set forth above is made to and for the benefit of Customer only. The warranty will apply only if:

6.1.1. the Software has been properly installed and used at all times in accordance with the applicable license terms set out in the Order, this Agreement, the Documentation, and any other instructions for use communicated by Denodo to the Customer; and

6.1.2. no modification, alteration or addition has been made to the Software by persons other than Denodo or Denodo's authorized representatives.

6.2. **Provision of Services.** Denodo represents and warrants to the Customer that the Services shall be provided with reasonable skill and care and by means of appropriately qualified and skilled personnel.

6.3. **Disclaimer.** Except as set forth above, Denodo makes no warranties, whether express, implied, or statutory regarding or relating to the Software the Documentation, or any materials or Services furnished or provided to Customer under this Agreement. DENODO HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND OTHER MATERIALS AND SERVICES PROVIDED HEREUNDER, AND WITH RESPECT TO THE USE OF ANY OF THE FOREGOING.

7. Limitation of Liability.

7.1. **Limitation on Indirect Liability.** Subject to Section 7.3 (Unlimited Liabilities), in no event will either party be liable for any loss of profits, loss of use, business interruption, loss of data, cost of cover or indirect, special, incidental or consequential damages of any kind in connection with or arising out of or relating to this Agreement, whether alleged as a breach of contract or tortious conduct, including negligence, even if such party has been advised of the possibility of such damages.

7.2. **Limitation on Amount of Liability.** Subject to Section 7.3 (Unlimited Liabilities), in no event shall either party's liability under this Agreement for damages exceed the fees paid or payable by Customer for the Software and/or Services in the last twelve (12) months preceding the claim.

7.3. **Unlimited Liabilities.** Nothing in this Agreement excludes or limits either party's liability for:

- 7.3.1. its fraud or fraudulent misrepresentation;
- 7.3.2. its obligations under Section 8 (Indemnification for Infringement);
- 7.3.3. its breach of Section 9 (Confidentiality);
- 7.3.4. its infringement of the other party's intellectual property rights;
- 7.3.5. its payment obligations under this Agreement; or
- 7.3.6. matters for which liability cannot be excluded or limited under applicable laws.

8. Indemnification for Infringement

8.1. **Indemnity.** Denodo shall, at its expense, defend or settle any claim, action or allegation brought against Customer that the Software infringes any intellectual property rights of any third party and shall pay any final judgments awarded or settlements entered into; provided that Customer gives prompt written notice to Denodo of any such claim, action or allegation of infringement and gives Denodo the authority to proceed as contemplated herein. Denodo will have the exclusive right to defend any such claim, action or allegation and make settlements thereof at its own discretion, provided, that, Denodo may not, without Customer's consent, agree to any settlement that requires Customer to admit any fault or pay any un-indemnified amount. The Customer shall give such assistance and information as Denodo may reasonably require to settle or oppose such claims, at Denodo's expense.

8.2. **Remedies.** In the event that, during the License Term, the Software is determined, in a final, non-appealable order, to be infringing, or if Denodo determines, in its sole discretion, that continued use of the Software, as is, is no longer possible, Denodo may, at its sole option and expense:

8.2.1. procure for Customer the right to continue use of the Software or infringing part thereof; or

8.2.2. modify or amend the Software or infringing part thereof, or replace the Software or infringing part thereof with other software having substantially the same or better capabilities;

or, if neither of the foregoing is commercially practicable, terminate the Order and repay to Customer a pro rata amount of the applicable fees for the affected license based on the number of months or portion thereof that Customer has had use of the Software. Denodo and Customer will then be released from any further obligation to the other under this Agreement, except for the obligations of indemnification provided for above and such other obligations that survive termination.

8.3. **Exclusions.** The foregoing obligations will not apply to the extent the infringement arises from or as a result of (i) modifications to the Software made by any party other than Denodo or an authorized representative of Denodo, or (ii) any combination of the Software with other products, processes or materials where the alleged infringement would not have occurred in the absence of such combination.

8.4. **Limitation.** THIS SECTION 8 (INDEMNIFICATION FOR INFRINGEMENT) STATES THE ENTIRE LIABILITY OF DENODO WITH RESPECT TO INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT.

9. Confidential Information

9.1. **Non-Use and Non-Disclosure.** Each party agrees not to use any Confidential Information of the other party for any purpose except to exercise its rights and perform its obligations under this Agreement. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party's employees or contractors, except on a need-to-know basis and provided that such third-party and/or employees and contractors have signed a confidentiality agreement in content similar to the provisions hereof. Each party agrees that it shall take reasonable measures, at least as protective as it takes to protect its own most highly confidential information, to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Notwithstanding the foregoing, a receiving party may disclose such Confidential Information to the extent it is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

9.2. **Customer Data.** Customer shall own any data or information created by Customer and all output based thereon from Customer's use of the Software ("Customer Data"). Customer will be solely responsible for the accuracy, content, lawfulness and use of Customer Data. Customer Data shall be deemed Customer's Confidential Information.

9.2.1. **Health Information.** Customer will not send, transmit or otherwise provide to Denodo any patient, medical or other protected health information regulated by the Health Insurance Portability Act, as amended and supplemented or any similar federal or state laws, rules or regulations. Customer acknowledges that Denodo is not a Business Associate and that Denodo's internal IT management systems have not been tested for HIPAA compliance. Denodo shall have no liability under this Agreement for any such health information, notwithstanding anything to the contrary herein.

9.2.2. **Payment Card Data.** Customer will not send, transmit or otherwise provide to Denodo any payment card information. Customer acknowledges that Denodo's internal IT management systems have not been tested for Payment Card Industry Data Security Standards compliance. Denodo shall have no liability under this Agreement for any such payment card information, notwithstanding anything to the contrary herein.

9.3. **Security.** Denodo shall implement data security measures in compliance with industry standards and all applicable laws and such security measures shall protect the privacy, confidentiality, integrity and availability of all of Customer's Confidential Information. Upon the reasonable request of Customer, Denodo shall provide Customer with reasonable information regarding Denodo's security measures designed to protect the privacy of Customer's Confidential Information. Denodo shall secure and protect Customer's Confidential Information using at least the same degree of care as Denodo uses to secure and protect its own confidential and proprietary information but in no event any less than reasonable care.

9.4. **Copies.** Save as may be permitted by this Agreement, neither party shall make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

9.5. **Injunctive Relief.** Money damages may not be a sufficient remedy for a breach of confidentiality. If either party breaches the confidentiality obligations, the non-breaching party may seek injunctive or other equitable relief without the necessity of posting a bond even if otherwise normally required. Such injunctive or equitable relief is in addition to all other rights and remedies available at law or in equity.

9.6. **Return of Materials.** Upon the termination of this Agreement, each party shall deliver to the other party all of such other party's Confidential Information, and any copies thereof, that such party may have in its possession or control.

10. Term and Termination

10.1. **Term.** This Agreement will be effective as of the Effective Date and remain in force until terminated as provided herein. If, at any time, there are no outstanding Orders then in effect, then either party may terminate this Agreement on ninety (90) days' written notice to the other party. The term of each Order will be as specified therein.

10.2. **Termination by Customer.** This Agreement or any Order may be terminated by Customer for cause if Denodo is in material breach of any term, condition, or provision of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after Customer gives Denodo written notice of such breach.

10.3. **Termination Events.** Denodo may, by written notice to Customer, terminate this Agreement if any of the following events occur:

10.3.1. Customer is in material breach of any term, condition, or provision of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after Denodo gives Customer written notice of such breach; or

10.3.2. Customer (i) terminates or suspends its business; (ii) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver, or similar authority; or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes; or

10.3.3. Denodo refunds Customer's fees in accordance with Section 8.2.3.

10.4. **Effect of Termination.** Termination of an Order shall not be deemed a termination of this Agreement. Termination of this Agreement shall, however, terminate all outstanding Orders. No later than thirty (30) days after the date of termination or discontinuance of this Agreement for any reason whatsoever, Customer shall cease all use of and either return or destroy the Software, all Documentation relating thereto, all copies, in whole or in part, and any other Denodo Confidential Information in its possession that is in tangible form. In the case of termination or discontinuance of an individual Order, no later than thirty (30) days after the date of such termination or discontinuance, Customer shall cease all use of and either destroy or return the Software and all Documentation related to such Order.

10.5. **Survival.** If any termination occurs, termination will become effective immediately or on the date set forth in the written notice of termination. The following sections will survive any termination or expiration of this Agreement: Sections 1 (Definitions), 4 (Fees), 7 (Limitation of Liability), 8 (Indemnification for Infringement), 9 (Confidential Information) (for five (5) years following the effective date of such expiration or termination), 10.4 (Effect of Termination), 10.5 (Survival) and 11 (Miscellaneous).

11. Miscellaneous

11.1. **Non-assignment/Binding Agreement.** Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Customer, in whole or in part, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of Denodo, which consent will not be unreasonably withheld. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

- 11.2. **Notices.** Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by first class registered mail, or air mail, as appropriate, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address set forth in the Order. In addition to the foregoing, notices shall be sent to a party's electronic mail address, as set forth on page 1 of this Agreement. Either party may change its address for notice by providing notice to the other party in accordance with this Section 11.2 (Notices). Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after deposit in the mail as set forth above, or one day after delivery to an overnight air courier service.
- 11.3. **Limitation on Claims.** No action arising out of any breach or claimed breach of this Agreement or transactions contemplated by this Agreement may be brought by either party more than one year after the cause of action has accrued. For purposes of this Agreement, a cause of action will be deemed to have accrued when a party knew or reasonably should have known of the breach or claimed breach.
- 11.4. **Force Majeure.** Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquake, fire and explosions. Notwithstanding the foregoing, a party's force majeure shall not excuse its obligation to pay outstanding undisputed invoices.
- 11.5. **Waiver.** Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed and will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action. No exercise or enforcement by either party of any right or remedy under this Agreement will preclude the enforcement by such party of any other right or remedy under this Agreement or that such party is entitled by law to enforce.
- 11.6. **Severability.** If any term, condition, or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.
- 11.7. **Integration and Entire Agreement.**
- 11.7.1. This Agreement (including any Order) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes and extinguishes all

previous communications, drafts, arrangements, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter.

11.7.2. In the event of a conflict between an Order and this Agreement, the terms of this Agreement will govern, except to the extent, if any, otherwise expressly set forth in the Order.

11.7.3. This Agreement may not be amended, except in writing signed by both parties.

11.8. **Purchase Orders.** No terms, provisions or conditions of any purchase order, invoice, acknowledgement or other business form that a party may use in connection with the acquisition or licensing of the Software will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of the other party to object to such terms, provisions or conditions.

11.9. **Data Protection.**

11.9.1. Each party shall comply at all times with its obligations under applicable data protection laws;

11.9.2. The Customer is responsible for obtaining all relevant consents from, and providing all relevant notices to, individuals as required to ensure that the parties' dealings with Customer Data under this Agreement comply with Applicable Data Protection Laws; and

11.9.3. Each party acknowledges that with regard to processing personal data subject to the GDPR and UK GDPR, Customer is a controller and Denodo is a processor and each party shall comply with its obligations set out in that certain Data Processing Agreement available at <https://www.denodo.com/en/dpa>.

11.10. **Export.** The Software, Services and Documentation may be subject to import, export or re-export rules and regulations of one or more countries. Customer may not import, export or re-export the materials provided under this Agreement to any country, jurisdiction or person: (a) to which the import, export, re-export or release is prohibited by applicable law, or (b) without first completing all required undertakings (including obtaining any necessary import or export license or other governmental approval).

11.11. **Publicity.** Customer's written consent, in its sole discretion, shall be required in the event that Denodo desires to use Customer's name in any publicity materials indicating that Customer is a customer of Denodo.

11.12. **Third Party Beneficiaries.** This Agreement is for the benefit of the parties and their successors and permitted assigns and does not confer any rights or benefits on any third party, including any employee of a party, any client of a party, or any employee of a client of a party. Notwithstanding the above, the parties acknowledge that all rights and benefits afforded to Denodo under this Agreement apply equally to its Affiliates and its licensors.

- 11.13. **U.S. Government End Users.** Software and/or Documentation delivered to U.S. Government end users are “commercial computer software” pursuant to the applicable Federal Acquisition Regulation and agency-specific supplemental regulations. As such, use, duplication, disclosure, modification, and adaptation of the Software and/or Documentation shall be subject to the license terms and license restrictions set forth in this Agreement. No other rights are granted to the U.S. Government.
- 11.14. **Anti-Corruption Compliance.** The parties represent and warrant that they will comply fully with the U.S. Foreign Corrupt Practices Act, UK Anti-Bribery Act and the applicable anti-corruption and/or anti-bribery laws and regulations of other jurisdictions.
- 11.15. **Counterparts.** This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement.
- 11.16. **Governing Law.** This Agreement will be interpreted and construed in accordance with the laws of the United Kingdom, without regard to conflict of law principles.
- 11.17. **Dispute Resolution.** All disputes, claims or controversies related to this Agreement (including any under a statute or regulation) “**Disputes**” shall be submitted to binding arbitration (“**Arbitration**”), which shall take place via online conferencing, and shall be administered by, and pursuant to the rules of, the International Chamber of Commerce (“**ICC**”) following the ICC’s “**Expedited Procedure Provisions**” in effect at the time of filing, or other arbitral body mutually agreeable to the parties and/or as necessary to facilitate online arbitration not requiring the parties to travel for the arbitration of the Disputes. However, either party may seek a temporary restraining order or other temporary or preliminary relief in a court of competent jurisdiction pending final arbitral resolution of a Dispute. Otherwise, neither party shall have the right to litigate the Dispute in court or have a jury trial, or to engage in pre-arbitration discovery except as provided in ICC rules in effect at the time of filing. The arbitrator’s authority to resolve and make awards for Disputes is limited to Disputes between the parties to this Agreement alone. No Dispute arbitration award or decision shall be given preclusive effect as to issues or claims in any dispute with any person who is not a party to the arbitration. This section may be enforced in a court of competent jurisdiction. The parties will be responsible for paying their respective shares of any of the costs associated with the Arbitration. The number of arbitrators shall be one. The language to be used in the arbitral proceedings shall be English.
- 11.18. **The rule about “contra proferentem”.** This Agreement is not to be interpreted against the interests of a party merely because that party proposed this Agreement or some provision in it or because that party relies on a provision of this Agreement to protect itself.

IN WITNESS WHEREOF, Denodo and Customer have caused their duly authorized representatives to execute this Agreement.

DENODO TECHNOLOGIES LIMITED

[CUSTOMER]

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____