

CData Cloud Services Agreement

Last Revised September 11, 2024.

This Terms of Service Agreement (the “Agreement”) is made between Data Virtuality GmbH, Katharinenstr. 15, 04109 Leipzig, Germany (“CData Virtuality”) and the party (“Customer”) that subscribes for the Cloud Services, as defined in the Order Form. This agreement applies to all CData Virtuality cloud offerings (Software as a Service) that customers conclude with CData Virtuality. For on-premise and self-hosted in the cloud solutions, the EULA apply and this agreement does not apply. For customers based in Germany and the European Union (EU), the CData Virtuality-contract is generally concluded with CData Virtuality, unless expressly agreed otherwise. For customers based outside the EU, the contract is concluded with CData Software Inc. For the contractual relationships with CData Software Inc., the agreement linked [here](#) applies exclusively. Between CData Virtuality and each Customer the Agreement consists of these terms, each signed order form or online enrolment (including any notes, pricing or other terms listed therein) (the “Order Form”), including any exhibits, and any updates or amendments to each. This Agreement is effective as of the date of Customer’s initial Order Form (the “Effective Date”). By executing the initial Order Form or accessing the Cloud Services, Customer agrees to all the terms set forth below. In the event of a conflict between the Order Form and this Agreement, this Agreement shall control unless the applicable provisions of the Order Form expressly states that it will control. CData Virtuality offers are directed exclusively at business customers within the meaning of Section 14 Bürgerliches Gesetzbuch (“BGB”) and not at consumers within the meaning of Section 13 BGB. The obligations under Section 312 i (1) sentence 1 no. 1 to no. 3 and sentence 2 BGB do not apply to business relationships between CData Virtuality and its business customers.

1. CLOUD SERVICES; SUPPORT

1.1 Cloud Services.

CData Virtuality grants Customer a limited, non- exclusive, non-sublicensable, nontransferable (except as specifically permitted in this Agreement) right to access and use the Cloud Services during the applicable Subscription Term, and in scope of use restrictions as set forth in the applicable Order Form, solely for Customer’s internal business purposes subject to payment of the remuneration owed and due pursuant to Section 5. “Cloud Services” means the web-based product (“CData Virtuality Standard”, “CData Virtuality Professional”, “CData Virtuality Enterprise”, or “CData Virtuality for Amazon Seller”) developed, provided, and hosted by CData Virtuality or their affiliated companies within the meaning of no. 1.2 (“Affiliate”) as specified on an Order Form. As part of the registration process, Customer will identify an administrative username(s) and password(s) for Customer’s paid user(s) of the Cloud Services (each an “Authorized User”). CData Virtuality shall not owe to the customer any further quality of the software. In particular, CData Virtuality does not owe an adaptation to the specific individual needs or the IT environment of the Customer. The source code of the software shall neither be leased nor provided together with the software.

1.2 Orders by Affiliates.

Customers and Affiliates may each use the Cloud Service pursuant to this Agreement. To the extent Customer's Affiliates wish to make separate purchases, any of Customer's Affiliates may execute a new Order Form for Cloud Services purchased specifically for that Affiliate entity and will be subject to this Agreement unless otherwise noted. "Affiliate" within the meaning of this agreement means an entity controlling, controlled by or under common control with a party to this Agreement at any time during the term of this Agreement, for so long as such ownership and control exists, provided such entity is not a current or prospective competitor to CData Virtuality or their affiliates or in the business of developing and offering products or technologies that are substantially similar to the Cloud Services.

1.3 Support.

We will provide support in accordance with the policy available at our website. Support is subject to the terms of this Agreement, the Order Form, and the CData Virtuality Service-level-agreement ("SLA"). If Customer chooses to grant the CData Virtuality team access to their account for troubleshooting purposes, Customer acknowledges and agrees that employees or contractors of CData Virtuality or its Affiliates will be granted access to Customer's account and may query the data accessed by Customer during their usage of the Cloud Services, change the Customer's settings and otherwise modify Customer's account for the sole purpose of improving the Customer's usage of the Cloud Services.

Data Virtuality shall owe adjustments and modifications to the software as well as the creation of interfaces with third-party software only to the extent that these are necessary for maintaining or repairing the software or for securing its use intended according to the contract. In other respects, Data Virtuality shall only be obliged to perform adjustments or modifications if this is expressly agreed upon.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 Use of Software Underlying Cloud Services.

Customer acknowledges that Customer is solely responsible for complying with, and covenants to comply with, all laws applicable to Customer and to Customer's use of the CData Virtuality Materials, including without limitation all laws and regulations relating to the protection and non-disclosure of Customer Data (as defined in Section 3.1). Without limiting the generality of the foregoing, the Customer is solely responsible and obliged to use the Cloud Services only in compliance with any applicable laws, in particular on data protection or personally data, as well as all contractual provisions, in particular this agreement. Customer will not, directly or indirectly unless the applicable law prohibits or restricts restrictions on reverse engineering pursuant to Section 69e (1) of the German Copyright Act (Urhebergesetz, UrhG): reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Cloud Services or any software, documentation or data related to the Cloud Services (the "Software"); modify,

translate, or create derivative works based on the Cloud Services or any Software (except to the extent expressly permitted by CData Virtuality in writing or authorized within the Cloud Services); frame, mirror or use the Cloud Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels. The customer agrees that any loss or damage of any kind that occurs as a result of the use of any Content that the customer create or have created, upload, post, share, transmit, display or otherwise make available through the use of the Software is the sole responsibility of the customer and that the customer will indemnify CData Virtuality from any third-party claims in relation to the Content. In the case that third parties assert claims that impede the customer from exercising the rights of use granted to them under the contract, the customer shall inform CData Virtuality in writing immediately and comprehensively. The customer shall authorize CData Virtuality to make judicial and extra-judicial complaints about third parties on their own. In the case that an action is brought against the customer, they shall coordinate with CData Virtuality on that and shall perform procedural measures, in particular, acknowledgments and compromise agreements only with the consent of CData Virtuality.

2.2 Appropriate Use of Cloud Services.

2.2.1 Customer will not and shall ensure that Authorized Users do not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Cloud Services, any software related the Cloud Services, or the Documentation (collectively, the "CData Virtuality Materials"); (ii) permit any third party to access the CData Virtuality Materials except as permitted herein and in the relevant Order Form, (iii) modify, translate, publish, or create derivate works based on the CData Virtuality Materials (except to the extent expressly permitted by CData Virtuality in writing or authorized within the Cloud Services), (iv) copy, frame or mirror any part or content of the CData Virtuality Materials, including for service bureau or time sharing purposes or otherwise make the CData Virtuality Materials available to a third party, (v) decompile, disassemble, translate, reverse engineer or otherwise attempt to derive source code from the CData Virtuality Materials, in whole or in part, nor will Customer use any mechanical, electronic or other method to trace, decompile, disassemble, or identify the source code of the CData Virtuality Materials or encourage or permit others to do so, (vi) access the CData Virtuality Materials in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the CData Virtuality Materials, (vii) sell, resell, rent or lease the CData Virtuality Materials, (viii) use the CData Virtuality Materials to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party intellectual property rights, privacy rights, or rights of publicity, or otherwise use the CData Virtuality Materials in violation of the Documentation or this Agreement, (ix) remove any proprietary notices or labels, (x) store or transmit virus or other malicious code through the CData Virtuality Materials, (xi) interfere with or disrupt the integrity or performance of the CData Virtuality Materials, or third-party products or data contained therein, or (xii) attempt to gain unauthorized access to the CData Virtuality Materials or their related systems or networks. The above provisions of this Section 2 do not restrict the mandatory statutory rights of customers in particular pursuant to Sections 69d and 69e of the German Copyright Act (Urhebergesetz, UrhG). In particular the right to decompile the source

code granted to the customer herein is only granted under the terms of sec. 69e para. (1) nos. 1 to 3 UrhG and within the limits of sec. 69e para. (2) nos. 1 to 3 UrhG. No more extensive rights to use and exploit the Licensed Products are granted to the customer.

2.2.2 The customer shall protect the access data transmitted to him from access by third parties and keep it safe in accordance with the state of the art. The customer shall ensure that use only occurs to the contractually agreed extent. The customer undertakes to treat the access and usage data made available to him in strict confidence, to protect it from access by unauthorized third parties and not to pass it on to unauthorised third parties or users unless the parties have expressly agreed to do so. The customer shall keep any original data carriers provided and data carriers with copies made in accordance with the contract as well as the documentation in a safe place. CData Virtuality must be informed immediately of any unauthorised access.

2.2.3 The customer shall take reasonable precautions in the event that the programme does not work properly in whole or in part (e.g. by means of data backup, documentation of software use, fault diagnosis, regular testing of results, emergency planning). It is his responsibility to ensure the operability of the programme's working environment. The Customer shall receive instructions from CData Virtuality in the application documentation on what to do in the event of a complete failure of the software product or in the event of significant impairments that hinder operation. The Customer shall familiarise himself with the information in the instructions and draw up an emergency plan for his operation considering the information contained in the instructions. If the contractual items should fail completely or if its use is only possible in a way that significantly impedes the customer's operation, the customer shall immediately take measures to maintain its operation on the basis of the instructions and the contingency plan.

2.2.4 The customer shall check the data for viruses or other harmful components before storing them or using them in the software and shall use state-of-the-art measures (e.g. virus protection programs) for this purpose.

2.2.5 The customer is responsible for a sufficient backup of the data. In this respect, it is the Customer's responsibility to make regular, suitable and appropriate data backups. In particular, CData Virtuality has no obligation or other duty to back up, store or keep this data.

2.3 Protection of Customer Data.

CData Virtuality will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Customer Data in accordance with the Security Policy available upon request. CData Virtuality may update this policy provided any such updates will not degrade or materially change CData Virtuality's obligations therein. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by CData Virtuality personnel except (a) to provide the Cloud Services and to prevent or address service or technical problems, or (b) as Customer expressly permits in writing. For the Cloud Services, CData Virtuality does not monitor, track, or inspect Customer Data, including personally identifiable information (PII), and personal

healthcare information (PHI). Customer may configure the appropriate software settings based on Customer's use and security standards. CData Virtuality will not (a) modify Customer Data, (b) disclose Customer Data except as compelled by law or as expressly permitted in writing by Customer, or (c) access Customer Data, except to access to address service or technical problems. Any exchange of data between Customer and any third party, is solely between Customer and the applicable third party.

2.4 OpenAI Services.

If Customer chooses to access the OpenAI-connected features of the Cloud Services, CData Virtuality will send certain customer table metadata related to your use of such features to Azure OpenAI. This means that any sensitive information including personal information as that term is defined under various privacy laws contained in your questions or customer table metadata, could be passed to Azure OpenAI. For clarity, CData Virtuality does not send any other data provided by the Customer to 3rd parties in relation to the use of these features. CData Virtuality will not train models using such data, and our trained model partner (Azure OpenAI) has made representations that they will not train models using such data. The customer agrees to this by confirming the checkbox before using the OpenAI service.

2.5 Data and data protection

Insofar as the Customer transmits information to CData Virtuality that contains personal data, the Customer shall ensure that it is entitled to such transmission, in particular for the purpose of data processing by CData Virtuality in connection with the performance of this contract. The Customer shall ensure that the data subjects are properly informed about the processing of their data. The use of the Cloud Services to process any sensitive (personal) information in accordance with art. 9 GDPR, including any patient information (e.g., patient names, telephone number, any dates associated with a patient, and any unique identifying numbers associated with patient is prohibited. It is Customer's responsibility to ensure that such information is not placed on the Cloud Services. IF CUSTOMER'S USE OF THE CLOUD SERVICES REQUIRES THE USE OF SENSITIVE INFORMATION, PLEASE CONTACT CDATA VIRTUALITY TO USE OUR SERVICES OUTSIDE THE CLOUD ENVIRONMENT BEFORE PROCESSING DATA. The provisions on data protection when operating the CData Virtuality-Cloud Services are set out in the current version of the data protection information, available at <https://www.cdata.com/company/legal/privacy/>. With the conclusion of the contract, Customer also concludes a "Data Processing Agreement" ("DPA" - "Auftragsverarbeitungsvertrag" in accordance with Art. 28 General Data Protection Regulation (GDPR - "DSGVO") with CData Virtuality. The DPA can be accessed via the provided link (<https://files.cdata.com/media/media/2vdbu2r3/2024-03-08-data-virtuality-unilateral-dpa-12.pdf>) and becomes effective upon conclusion of the Order Form.

3. CONFIDENTIALITY

3.1 Confidential Information.

Subject to the limitations set forth herein, all information disclosed by one party to the other party during the term of this Agreement, whether in oral, written, graphic or electronic form, shall be deemed to be "Confidential Information". Confidential Information of CData Virtuality includes non-public information regarding features, functionality and performance of the Cloud Services and Software. Confidential Information of Customer includes all data provided by Customer to CData Virtuality to enable the provision of the Cloud Services ("Customer Data").

3.2 Exceptions.

Confidential Information does not include information which: (a) is part of the public domain at the time of disclosure; (b) becomes a part of the public domain through no fault of the receiving party or persons or entities to whom the receiving party has disclosed, transferred or permitted access to such information; (c) becomes available to the receiving party on a non-confidential basis from a source legally entitled to share the information without confidential treatment; (d) is independently developed by the receiving party without use of or access to the disclosing party's Confidential Information; or (e) is released from the confidentiality obligations herein by written consent of the disclosing party.

3.3 Nondisclosure.

Each party covenants that it will not disclose any Confidential Information of the other party to any person or entity except: (a) to agents of the receiving party who have a need to know such information, who are subject to confidentiality agreements with the receiving party at least as protective of the disclosing party's Confidential Information as this Agreement, or (b) pursuant to the terms of a valid and effective subpoena or court order, provided that the receiving party immediately notifies the disclosing party (to the extent permitted) of the existence, terms and circumstances surrounding such a request so that the disclosing party may seek appropriate protective action. Neither party may use the other party's Confidential Information in any directly competitive manner or for any purpose other than to exercise its rights and comply with its obligations under this Agreement. Both parties shall undertake to make the information received from the respective other party under this contract available only to those employees that require them for purposes of this agreement and shall undertake to impose also on these employees an obligation to maintain confidentiality regarding all information in accordance with this agreement. Both parties shall take all necessary measures in order to avoid the forwarding of received information to unauthorized persons.

3.4 Return; Destroy; Protect.

On the disclosing party's request, the receiving party must return or destroy all Confidential Information of the disclosing party which has been supplied to or acquired by the receiving party other than: (a) records the receiving party has a separate legal right or obligation to retain;

and (b) copies of Confidential Information created in the ordinary course of the receiving party's business and retained in accordance with its internal document retention and information technology policies. To the extent the receiving party retains information disclosed by the disclosing party, the receiving party will continue to protect such information in accordance with Section 3.3: (x) for so long as it meets the definition of Confidential Information above; (y) if it constitutes a trade secret for so long as required under applicable law, and/or (z) if it constitutes personal data received from the disclosing party for so long as required by applicable law.

3.5 Customer Identification.

CData Virtuality may identify Customer as a user of the Cloud Services and may use Customer's name and logo in CData Virtuality's customer list, press releases, blog posts, advertisements, and website.

4. PROPRIETARY RIGHTS

4.1 Ownership Rights.

Customer is the owner of all rights, titles and interests in and to the Customer Data and all results that the Customer develops through the use of the Cloud Services on the basis of the Customer Data as well as any intellectual property rights in relation to the aforementioned items. CData Virtuality owns and retains all right, title and interest in and to (a) the Cloud Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed by or on behalf of CData Virtuality in connection with the Cloud Services, and (c) all intellectual property rights related to any of the foregoing.

4.2 Injunction for Breach.

The parties agree that damages would be an inadequate remedy in the event of a breach of Sections 3 or 4. Therefore, the parties agree that a party is entitled, in addition to any other rights and remedies otherwise available, to seek injunctive and other equitable relief in the event of a breach or threatened breach by the other party of Sections 3 or 4.

5. PAYMENT OF FEES

5.1 Calculation of Fees.

Customer will pay CData Virtuality the applicable fees described in each Order Form (the "Fees"). Fees for committed prepaid subscriptions are identified on the initial Order Form. Except as otherwise provided herein or as set forth by our payment processor here <https://stripe.com>, all fees are nonrefundable. Per-Authorized User pricing assumes normal query usage per paying Authorized User of the Services. If Customer's use of the Cloud Services exceeds the capacity set forth herein or on the Order Form(s), or otherwise requires the payment of additional fees, CData Virtuality will invoice Customer in arrears for such

additional usage and Customer agrees to pay the additional Fees in the manner provided herein.

5.2 Payment Terms.

CData Virtuality will bill for the Cloud Services through an invoice, through the marketplace where the original purchase was made, or directly through credit card if provided. Full payment for invoices issued in any given month must be received by CData Virtuality within 30 days after the issuance of the invoice (which may be sent by email). If Customer is paying by credit card, Customer represents and warrants that it has the right to use the credit card provided and grants CData Virtuality the right to provide the credit card information, including the credit card number, its expiration date and billing address, to third parties for the purposes of facilitating payment transactions. Verification of information may be required prior to the acknowledgment or completion of any payment transaction. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Cloud Services in accordance with Section 6.2. Customer is responsible for any sales, use, value added, excise, property, withholding or similar tax and any related tariffs, and similar charges, except taxes based on CData Virtuality's net income. If Customer is required to pay any such taxes, Customer shall pay such taxes with no reduction or offset in the amounts payable to CData Virtuality hereunder. If an applicable tax authority requires CData Virtuality to pay any taxes that should have been payable by Customer, CData Virtuality will advise Customer in writing, and Customer will promptly reimburse CData Virtuality for the amounts paid. If Customer believes that CData Virtuality has billed Customer incorrectly, Customer must contact CData Virtuality no later than 60 days after the date of the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to CData Virtuality's accounting department (invoice@datavirtuality.com). Without limiting its other remedies, CData Virtuality may suspend Cloud Services in whole or in part after prior notification of the Customer if the Customer fails to meet its payment obligations under this Agreement. This suspension will not exempt the Customer from paying the outstanding amounts. The Customer remains liable for all fees and charges incurred during the suspension period.

5.3 Price adjustment

CData Virtuality shall adjust the prices to be paid at its reasonable discretion to the development of the costs that are decisive for the price calculation. A price increase shall be considered if, for example, the costs for the production and provision of the products (e.g. infrastructure costs, license costs for third-party works) increase or other changes in the technical or legal framework conditions lead to a changed cost situation (e.g. requirement to update software or hardware components, changes in copyright legislation). Changes to the prices under this clause are only possible on the first of the following billing period. CData Virtuality shall notify the customer of the change in text form no later than 2 weeks before the planned date of entry into force. In the event of a price change, the customer has the right to terminate the contract in text form without observing a notice period as of the date on which

the change comes into effect. CData Virtuality shall inform the customer of this separately in the price change notification. § 315 BGB remains unaffected.

6. TERM AND TERMINATION

6.1 Term.

This Agreement will continue from the Effective Date until the earlier of: (a) the expiration of all Cloud Services subscriptions or (b) termination pursuant to Section 6.2 below (together, the "Term"). Month-to-month plans will renew automatically each month and may be cancelled at any time on notice by either party to the other. Each Cloud Services subscription will run for the subscription term specified in the applicable Order Form and will renew automatically on CData Virtuality's then-current terms and conditions for one-year periods unless a party provides notice of nonrenewal to the other part at least 30 days prior to expiration of the applicable. CData Virtuality will notify Customer in connection with any renewal to provide opportunity for notice and/or cancellation.

6.2 Termination for Cause.

In addition to any other remedies it may have, (A) either party may terminate this Agreement upon written notice (or without notice in the case of nonpayment), if the other party (i) materially breaches any of the terms or conditions of this Agreement and fails to cure such breach within 30 days after written notice describing the breach; or (ii) files for bankruptcy or is the subject of an involuntary filing in bankruptcy (in the latter case, which filing is not discharged within 60 days) or makes an assignment for the benefit of creditors or a trustee is appointed over all or a substantial portion of its assets and (B) CData Virtuality may additionally terminate this Agreement and the Cloud Services (or any portion of the Cloud Services) immediately and without notice (i) if it has reason to believe Customer is violating Section 2 of this Agreement; (ii) if the customer is in delay in paying the rent or a substantial part of the rent in respect of two subsequent rent payment dates (Section 543 Subsection (2) No. 2a BGB; (iii) if the customer, for a period covering more than two rental payment dates, is in delay in paying the rent in an amount equal to or exceeding the rent payable for two months (Section 543 Subsection (2) No. 3b BGB);. In the case where CData Virtuality terminates this Agreement for Customer's breach, Customer remains obligated to pay the balance due on Customer's account for the remainder of the Term, computed in accordance with the applicable Order Form(s), and will be billed for such unpaid fees. (D) A termination by the customer in accordance with § 543 (2) sentence 1, no. 1 BGB on the basis of not being granted the use in accordance with the contract shall only be permitted after CData Virtuality has been granted sufficient opportunity to remove the defects and this has failed. It shall only be assumed that the removal of the defects has failed if it is impossible, if CData Virtuality definitely refuses to perform or unreasonably delays the removal, if there are justified doubts regarding the prospects for success or if the removal is unacceptable for the customer for other reasons.

6.3 Survival.

All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

7. Authority, availability and case of defect

7.1 Authority.

Each of CData Virtuality and Customer represents and warrants that: (a) it has the full right, power and authority to enter into and fully perform this Agreement; (b) the person signing this Agreement on its behalf is a duly authorized representative of such party who has in fact been authorized to execute this Agreement; (c) its entry herein does not violate any other agreement by which it is bound; and (d) it is a legal entity in good standing in the jurisdiction of its formation.

7.2 Availability

CData Virtuality shall use reasonable efforts consistent with prevailing industry standards to maintain the Cloud Services in a manner which minimizes errors and interruptions in the Cloud Services and shall perform implementation and support Cloud Services in a professional and workmanlike manner. Upon conclusion of the contract and agreement to these GTC, the contractual partners shall also agree on the error classes and response times (service level) in accordance with the attached CDATA VIRTUALITY MAINTENANCE AND SUPPORT SERVICE GUIDE ("SLA").

7.3 Case of defect

7.3.1 The customer shall be obliged to notify CData Virtuality immediately of any defects, faults or damage. In doing so, the customer shall consider the information of CData Virtuality regarding the analysis of problems to the extent that this is reasonable for the customer and shall forward to CData Virtuality all information that is available to the customer and required for removing the defect.

7.3.2 The software is only defective if the customer can prove that there are reproducible deviations from the specification or conflicts with the rights of third parties when the software is used as intended and in accordance with the contract. A defect of the software shall particularly exist if the software does not provide the functionalities determined in the product description of the software when used in accordance with the contract. A defect of the application documentation shall exist if a competent user, who has basic knowledge regarding the usage of the software, is unable to understand how to use individual functions with the help of the documentation or to solve problems occurring while applying reasonable effort. The warranty of the freedom of the Contractual Items of third party rights shall, however, only apply to the countries of destination agreed upon between the parties in which the Contractual Items

shall be used. Without an express agreement, the warranty shall exclusively apply to the country in which the customer has their place of business.

7.3.3 A defect of the software shall particularly not exist

(a) if it does not occur in the last version provided to the customer and the customer can reasonably be expected to use it;

(b) if the aforementioned requirements are met and this does only insignificantly affect the use of the software or the failure was caused by inappropriate handling of the software; in particular a functional impairment of the programme resulting from hardware defects, environmental conditions, incorrect operation or similar is not a defect in accordance with this no. 7;

(c) if the Customer fails to notify a defect immediately and CData Virtuality was unable to remedy the defect as a result of the failure to notify the defect immediately, or

(d) if the Customer is aware of the defect at the time of conclusion of the contract and has not reserved his rights.

7.3.4 The customer shall support CData Virtuality in analysing the defect and rectifying the defect, in particular by specifically describing any problems that occur, providing CData Virtuality with comprehensive information and granting CData Virtuality the time and opportunity required to rectify the defect. CData Virtuality may choose to remedy the defect at the Customer's premises or at its business premises or by remote maintenance. The Customer shall provide the necessary technical prerequisites at its own expense and grant CData Virtuality online access to the software after prior notification.

7.3.5 In cases of defects of quality, CData Virtuality shall initially comply with its warranty obligation by means of a supplementary performance. For that purpose, CData Virtuality shall, at their choice, provide the customer with a new software version that is free of defects or shall remove the defect; the fact that CData Virtuality shows the customer adequate options to avoid the effects of the defect, shall also be deemed to be a removal of the defect. Also, in cases of defects of title, CData Virtuality shall initially comply with their warranty obligation by means of a supplementary performance. For that purpose, CData Virtuality shall, at their choice, provide to the customer a legally unobjectionable option to use the Contractual Items or the replaced or altered equivalent Contractual Items. In other respects, the statutory provisions regarding leases shall apply.

7.3.6 CData Virtuality shall bear the costs of the supplementary performance. If it becomes apparent that no defect of the software existed, the customer shall reimburse CData Virtuality for the expenses caused by the works performed to the extent that during the examination process regarding the defect, the customer has not applied the necessary care and due diligence.

8. LIABILITY AND LIMITATION OF LIABILITY

8.1 Liability

CData Virtuality shall in each case be liable without limitation and within the scope of the statutory provisions for damages

(a) arising from injury to life, body or health, that are attributable to an intentional or grossly negligent infringement of obligations or to another intentional or grossly negligent conduct of CData Virtuality or one of their statutory representatives or performing agents [“Erfüllungsgehilfen”];

(b) based on the initial or subsequent absence of a warranted characteristic or in the case of the noncompliance with a guarantee:

(c) that are attributable to an intentional or grossly negligent infringement of obligations or to another intentional or grossly negligent conduct of by CData Virtuality or one of their statutory representatives or performing agents. The liability in accordance with the German Product Liability Law (Produkthaftungsgesetz, ProdHaftG) – insofar as applicable – shall remain unaffected. Insofar as the services offered in connection with the use of the software product are pure services (e.g. support services), CData Virtuality shall be liable for defects in these services in accordance with the rules of the German service contract law (§§ 611 ff. BGB/ Dienstvertragsrecht)).

8.2 Limitation of Liability

8.2.1 CData Virtuality shall be liable – while the compensation for damages shall be limited to foreseeable damages that are typical for the contract – for damages that are attributable to a slightly negligent infringement of cardinal obligations which are not based on injury to life or limb by CData Virtuality or one of their statutory representatives or performing agents or in the event of delay or impossibility and SHALL BE LIMITED TO THE FEES PAID OR PAYABLE BY CUSTOMER TO CData DURING THE TWELVE-MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO ANY CLAIM, OR EUR 100,00 IF CUSTOMER IS USING A TRIAL OF THE CLOUD SERVICES. THE FOREGOING SHALL NOT LIMIT CUSTOMER’S PAYMENT OBLIGATIONS HEREUNDER. Cardinal obligations shall be obligations that enable the due performance of this contract in the first place and the compliance with which the customer may rely upon. CData Virtuality is not liable for other cases of slight negligent.

8.2.2 In case of data loss, CData Virtuality shall be liable only for the damage that would have accrued also in the case of due and regular data backups made by the customer correspondent to the importance of the data; this limitation shall not apply if the data backup was impeded or impossible due to reasons attributable to CData Virtuality.

8.2.3 The aforementioned provisions shall apply with the necessary modifications also to the liability of CData Virtuality regarding the reimbursement of wasted expenditure.

8.2.4 No-fault liability on the part of CData Virtuality for defects already existing at the time of conclusion of the contract pursuant to Section 536 a (1) Hs. 1 BGB is excluded.

8.2.5 Any more extensive liability of CData Virtuality is excluded on the merits. The above limitations of liability also applies to the personal liability of employees, representatives and organs of CData Virtuality.

8.2.6 CData Virtuality is not liable for damages that are based on causes that lie outside the area of responsibility of CData Virtuality, its legal representatives and its vicarious agents. This applies in particular to damage caused by disruptions to lines, servers and other facilities that are not subject to this area of responsibility.

8.2.7 CData Virtuality is not liable for an infringement of the rights of third parties by the customer, provided and to the extent that this infringement results from the customer exceeding the usage rights granted under this contract. In this case, the customer shall release CData Virtuality at first request from all claims by third parties.

9. MISCELLANEOUS

9.1 No Agency.

No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect whatsoever to any third party.

9.2 Notices.

All notices under this Agreement must be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested to each party at its respective address provided on the initial Order Form.

9.3 Enforceability.

Should a provision of this contract be or become invalid, contain an inadmissible determination of a time limit or a regulatory gap, the legal validity of the other provisions shall remain unaffected thereof. If the invalidity results from an infringement of § 305 et seq. BGB (inclusion of General Terms and Conditions), instead of the invalid provision, a valid provision shall be deemed to be agreed upon, which comes closest to the intentions of the parties in an economical respect. The same shall apply to the case of a regulatory gap. In the case an inadmissible time period has been determined, the legally permitted period shall apply.

9.4 Assignment.

You may not, without our prior written consent, assign or novate this Agreement or any of your rights or obligations under this Agreement, or the Services or any of our Confidential Information, in whole or in part, by operation of law, sale of assets, merger or otherwise, to any other party, including any parent, subsidiary or affiliated entity. Your Change of Control will constitute an assignment for purposes of the preceding sentence. A "Change of Control" will

include, but not be limited to, any merger, consolidation, amalgamation, reorganization or sale, transfer or exchange of the capital stock or equity interests of you in a transaction or series of transactions which results in the holders of your capital stock or equity interests holding less than 50% of the outstanding capital stock or equity interests immediately following such transaction(s).

9.5 Integration.

This Agreement is the complete 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 and shall apply exclusively; general terms and conditions of the customer that conflict with, supplement or deviate from this agreement shall not become part of the contract unless CData Virtuality has expressly agreed to their validity at least in text form. This requirement of consent shall apply in any case and in particular also if CData Virtuality perform a service to the customer without reservation or accept a service of the customer without reservation in the knowledge of conflicting, supplementary or deviating general terms and conditions of the customer. This shall also apply if the customer refers to its general terms and conditions of business when concluding the contract and CData Virtuality does not expressly object to this. This Agreement shall supersede the terms of any purchase order or other business form. If accepted by CData Virtuality in lieu of or in addition to CData Virtuality's Order Form, Customer's purchase order shall be binding only as to the following terms: (a) the Cloud Services ordered and (b) the appropriately calculated fees due. Other terms shall be void.

9.6 Amendment; Counterparts.

Except as otherwise stated in this Section 9.7, no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. This Agreement may be executed by written signature or electronically and delivered in multiple counterparts, including facsimile, PDF, or other electronic counterparts, all of which will constitute one and the same instrument and agreement. CData Virtuality may modify this Agreement from time-to-time with the customer's consent, provided that the amendment is reasonable for the customer, considering CData Virtuality's interests. Consent to the amendment to the contract shall be deemed to have been given if the customer does not object to the amendment within four weeks of receipt of the notification of amendment, which CData Virtuality shall point out in the notification of amendment. Unless another agreement between the parties supersedes this Agreement, changes become effective for Customer upon renewal of the then-current subscription term or entry into a new Order Form after the updated version of this Agreement becomes effective.

9.7 Other Agreements

CData Virtuality may access, collect, and use any information from or relating to the customer's use of the Contractual Items ("Related Information") for customer and technical support, for regulatory and third party compliance purposes, to protect and enforce CData Virtuality's rights, to monitor compliance with and investigate potential breaches of the terms of this contract, and to recommend additional products or services to the customer. CData Virtuality may share this information with CData Virtuality's partners or affiliates for the same purposes. The customer grants CData Virtuality and CData Virtuality affiliates the perpetual right to use Related Information and any feedback provided by the customer for purposes such as to test, develop, improve, and enhance CData Virtuality's products and services, and to create and own derivative works based on Related Information and feedback. CData Virtuality shall also be entitled to use or incorporate into the services any suggestions, enhancement requests, recommendations, or other feedback provided by the customer relating to the operation of the services provided such information does only include anonymized data and does expressly not include any confidential information of the customer or any information that can relate commercially to the customer.

9.8 Governing Law.

9.8.1 The contract and this agreement shall be governed exclusively by and construed in accordance with the laws of Germany with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods ("CISG").

9.8.2 The use of the English language is for practical purposes only. It is not intended to be a reason to refer to the laws, legal doctrine, or case law of any English-speaking jurisdiction for interpretation. English language terms used in the contract and the Agreement describe German legal concepts only and shall not be interpreted by reference to any meaning attributed to them in any jurisdiction other than Germany. Where a German term has been inserted in brackets and/or italics it alone (and not the English term to which it relates) shall be authoritative for the purpose of the interpretation of the relevant term whenever it is used in this Agreement.

9.8.3 The exclusive place of jurisdiction for all disputes arising from and in connection with this contract shall be Leipzig, Germany. In the case that CData Virtuality brings an action, they shall also be permitted to select the seat of the customer as the place of jurisdiction. The right of both parties to seek interim legal protection before the courts that have jurisdiction in accordance with the statutory provisions shall remain unaffected.

Exhibit A

Support Terms - available upon request from sales@cdata.com.