

## GOODDATA POWEREDBY DATA AS A SERVICE PROGRAM AGREEMENT

BY USING THE SOFTWARE OR CLICKING THAT YOU AGREE OR ACCEPT THIS AGREEMENT, THE ENTITY IDENTIFIED DURING THE REGISTRATION PROCESS FOR THE SOFTWARE ("**YOU**" OR "**YOUR**") AGREES TO PARTICIPATE IN THE GOODDATA POWEREDBY PROGRAM AND BE BOUND BY THE TERMS OF THIS GOODDATA POWEREDBY DATA AS A SERVICE PROGRAM AGREEMENT (THIS "**AGREEMENT**") AND ALL OTHER SUPPLEMENTAL TERMS ATTACHED HERETO OR REFERENCED HEREIN. IF YOU DO NOT HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MAY NOT USE THE SOFTWARE.

**1. Definitions.** All capitalized terms not otherwise defined herein will have the meaning set forth below.

- (a) "**Affiliates**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity; for purposes of this definition, "control" means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- (b) "**Ancillary Services**" means implementation, training or other consulting services performed by GoodData, as may be requested from time to time, as described in a statement of work ("**SOW**") that is executed by the parties, and which incorporates the terms of this Agreement.
- (c) "**Customer**" or "**Your Customer**" means anyone who accesses or uses the Data Service (defined in Section 2(a)) (i) with whom you have a legal agreement directly (including any of customer's affiliates covered by such agreement) ("**Direct Customer**"), or (ii) who is a customer of a such a customer, with a legal agreement between them to that effect, in sequence and in perpetuity (i.e. Your customer through multiple tiers) ("**Indirect Customer**").
- (d) "**Deliverables**" means the guides, configurations, code (including SQL queries) or other deliverables that GoodData provides to You in connection with Ancillary Services. For clarity, GoodData may use compilers, assemblers, interpreters and similar tools to develop Deliverables. The term "Deliverables" does not include such tools.
- (e) "**Documentation**" means the online product documentation, user instructions and help files made available to You by GoodData, as may be updated from time to time by GoodData without notice to You.
- (f) "**GoodData**" means the entity identified in Section 10(a) (*Contracting Entity and Governing Law*) below as the party contracting with You under this Agreement.
- (g) "**GoodData Technology**" means Software, Development Tools, Previews, Deliverables, Usage Data, or Documentation.
- (h) "**License Key**" means a serial number that enables You to activate and use the Software.
- (i) "**Order(s)**" means the mutually executed document that describes the Software and/or Ancillary Services that You agree to license or purchase from GoodData in accordance with the terms and conditions of this Agreement. For clarity, no Order is necessary for GoodData.CN FREE, which is licensed to You under this Agreement.
- (j) "**Product Specific Terms**" means product entitlements descriptions and related terms available at <https://www.gooddata.com/legal/product-specific-terms>, as may be updated from time to time by GoodData, and which are hereby incorporated by reference into this Agreement.
- (k) "**Software**" means GoodData.CN FREE Edition as well as other products that may be provided to You by GoodData and specified in an Order. Products such as GoodData.CN GROWTH Edition or GoodData.CN ENTERPRISE Edition are only licensed to You pursuant to an Order.
- (l) "**Subscription Term**" means the term of the license for the relevant Software as specified in the Order or this Agreement. The Subscription Term for GoodData.CN FREE will be for the Term of this Agreement.
- (m) "**Third Party Applications**" means separate services or applications (and other consulting services related thereto), procured by You from a party other than GoodData that can be used in connection with the Software.
- (n) "**Usage Data**" means technical and related information about Your or Your Customers' use of the Software, including a unique user identifier assigned by GoodData, partial IP address (first two octets only), information about Your environment (such as browser, device type, operating system), information related to License Key authentication and Your compliance with any applicable Software limitations or restrictions, and non-personally identifiable Software usage statistics (like the aggregated use of a particular feature). Usage Data does not include any other personally identifiable information such as name or email address or any User-inputted data.
- (o) "**User(s)**" means employees, consultants, contractors, or agents of an Entity (or that Entity's Affiliate) who may access or use the GoodData Technology solely for that Entity's benefit, and who are authorized to do so by that Entity in accordance with this Agreement. An "**Entity**" is You or Your Customer.

**2. Licenses.**

- (a) **License to Software and Documentation.** During the Subscription Term, GoodData hereby grants You a worldwide, non-transferable (except as set forth in Section 10(d) (*Assignment*)), non-exclusive right and license to: (i) use the Software internally for Your business operations in accordance with the Documentation (You may exercise this right via Your Users); (ii) include the Software in Your software-as-a-service offering (combined, the "**Data Service**") and make the Data Service available to Your Direct Customers and Your Users; (iii) allow Direct Customers and Indirect Customers to make the Data Service available to their respective Users and other Indirect Customers; and (iv) use and reproduce the Documentation to assist You in Your use of the Software.

- (b) **Restrictions.** Except as expressly permitted in this Agreement, an Order, or a SOW, You will not (and You will not permit any third party to): (i) sell, lease, assign, license, sublicense, distribute, make available or otherwise transfer in whole or in part the GoodData Technology, or any component thereof to any third party; (ii) modify or prepare any derivative work based upon the GoodData Technology or any component thereof; (iii) reverse engineer, disassemble, or decompile the GoodData Technology or any component thereof, or attempt to discover or disclose the source code of the GoodData Technology or any component thereof unless it is provided to You in source code form; (iv) embed the Software in an on-premise or self-hosted product; (v) encumber, time-share, rent, or lease the rights granted under this Agreement; (vi) remove, obscure, or alter any notice of intellectual property rights present on or in the GoodData Technology or any component thereof; (vii) make any representations or warranties regarding the GoodData Technology that are false or misleading or which exceed those contained in this Agreement, the Documentation, or any marketing materials made available to You; (viii) permit the concurrent use of a single License Key for more than one deployment; (ix) attempt to circumvent, modify, or disable the authentication required to use the Software, any technical restrictions in the Software, or any other security measures of the Software; or (x) publish or otherwise distribute the results of any benchmarking studies related to the Software to third parties unless You provide a copy of Your study to [support@gooddata.com](mailto:support@gooddata.com) prior to distribution. If You wish to exercise any rights to reverse engineer to ensure interoperability in accordance with applicable law, You must first provide GoodData with written notice and all reasonably requested information to [support@gooddata.com](mailto:support@gooddata.com), permit GoodData to assess Your claim within 30 days and, at GoodData's sole discretion, to make an offer to provide alternatives that reduce any adverse impact on GoodData's intellectual property or other rights. The Software may be made available to You with certain trial features, modules or functionality ("**Trial Features**") that may only be used during the first 90 days of Your Subscription Term as specified in the Product Specific Terms; after 90 days you will cease using the Trial Features and GoodData may disable the Trial Features at any time after the 90 day period has ended.
- (c) **Providing Data Services to Customers and Users.** You will be liable for any acts or omissions by Your Customers or any Users that would constitute a material breach of this Agreement if committed by You. Without limitation of any of the foregoing, You will provide the Data Service to Your Direct Customers (if any) subject to the same terms and conditions that You provide Your software-as-a-service offering. With respect to the Data Service, Your agreements with Your Users, Your Direct Customers, and Your Direct Customers with Indirect Customers must: (i) be no less protective of GoodData's rights and ownership than this Agreement; (ii) not grant greater use or access rights to the Software than those rights, licenses and permissions described in this Agreement or an applicable Order; (iii) contain a statement that GoodData and its licensors (or Your licensors generally) do not grant any warranty and will not have any direct or indirect liability to any Customers or Users; (iv) include the restrictions in Section 2(b) above; and (v) require Customers to flow requirements (i)-(iv) down to their own Customers (i.e. Indirect Customers). You will use best efforts to enforce all the limitations, restrictions and protections in this Section 2(c) with respect to Your Customers and all Users.
- (d) **Open Source Software.** Open source software ("**OSS**") components provided with the GoodData Technology are licensed to You under the terms of the applicable license agreements included with such open source software components. OSS licenses can be found in the open source attribution files accompanying or linked to from the GoodData Technology, the Documentation, or as applicable, corresponding source files ("**Source Code**"). OSS licenses for the Software can be found at: <https://www.gooddata.com/legal/gooddata-cn-licenses>. All OSS license terms are consistent with the licenses granted in this Agreement, and may contain additional rights benefiting You. The OSS license terms will take precedence over this Agreement to the extent that this Agreement imposes greater restrictions on You than the applicable OSS license terms. To the extent the license for any OSS requires GoodData to make available to You the Source Code (and/or any modifications), You may obtain a copy of the applicable Source Code by sending a written request, with Your name and address to: GoodData Corporation, 1 Post St, Ste. 400, San Francisco, CA, 94104, United States of America or [legal@gooddata.com](mailto:legal@gooddata.com). All requests should clearly specify: Source Code Request, Attention: General Counsel. This offer to obtain a copy of the Source Code is valid for three years from the date You acquired the applicable Software.
- (e) **Technical Support Services.** You are entitled to receive technical support services for the Software in accordance with the applicable GoodData support policy available at <https://www.gooddata.com/support-policies/> (the "**Support Services**"). If certain OSS portions of the Software are modified, only modifications made in accordance with the Documentation will be supported. To the extent the support policy applicable to Your Software allows You to request Support Services from GoodData, any personally identifiable data submitted as part of such a support request will be subject to the GoodData Data Processing Addendum available at <https://www.gooddata.com/legal/dpa> (or as may be separately executed by the parties), as may be updated from time to time. As part of a support request, You must not submit any data to GoodData that: (i) You do not have the right to provide to GoodData; (ii) constitutes information that is regulated by the Health Insurance Portability and Accountability Act, as amended and supplemented, and the regulations thereunder, or any similar federal, state, or local laws, rules, or regulations; (iii) contains financial information including, for example, any payment card information; or (iv) is regulated by law or regulation You do not comply with or which would prohibit sharing such information with GoodData hereunder.
- (f) **Ancillary Services.** GoodData or its subcontractors may provide You with Ancillary Services as set forth in mutually executed SOWs and/or Orders. Each SOW and Order, as applicable, will: (i) be executed by the parties; (ii) include a description of the scope of Ancillary Services and any work product or other Deliverables to be provided to You; and (iii) incorporate the terms and conditions of this Agreement. GoodData hereby grants You and Your Users a non-exclusive, royalty-free, non-transferable (except as set forth in Section 10(d) (*Assignment*)), non-sublicensable worldwide license to use the Deliverables internally solely in connection with Your use of the Software during the applicable Subscription Term.
- (g) **Development Tools.** GoodData may, in its sole discretion, make available to You for Your convenience certain software tools, software development kits (SDKs), and similar software for download ("**Development Tools**"). Such Development Tools are not necessary for the proper functioning of the Software, will not be deemed Software, and may be licensed to You under separate terms and conditions. In the absence of a separate license agreement for such Development Tools, during the applicable Subscription Term, GoodData hereby grants You and Your Users a non-exclusive, royalty-free, non-transferable (except as set forth in Section 10(d) (*Assignment*)), non-sublicensable worldwide license to: (i) modify and create derivative works of Development Tools provided by GoodData in source code format; and (ii) reproduce and use the Development Tools (including modifications thereof made by You per Section 2(g)(i)) for Your internal business operations solely in connection with Your use of the Software.
- (h) **Previews.** GoodData may make available to You certain products, features, services, software, regions or cloud providers that are not yet generally available and which are labeled as "early access," "private preview," "public preview," "pre-release," "beta" or similar (collectively, "**Previews**").

Previews are not Software and Your licenses and other rights with respect to Software will not apply to Previews. Previews may be provided to You under separate terms and conditions. In the event of any conflict between this Agreement and the Preview terms, the Preview terms will govern and control solely with respect to the Previews. In the absence of a separate license agreement for a Preview, if GoodData provides You with access to a Preview, then GoodData hereby grants You and Your Users a worldwide, non-exclusive, non-sublicensable, and non-transferable (except as set forth in Section 10(d) (*Assignment*)) right and license to: (i) access and use the Preview (if any) that is provided by GoodData as software-as-a-service, solely to internally evaluate the Preview in a non-production environment with non-confidential, non-production data; and (ii) install and execute a Preview made available to You as downloadable software, solely on machines operated by or for You for internal evaluation. Previews, including their features and functionality: (A) are not an official product and have not been commercially released; (B) may not be in final form or be fully functional; (C) may contain errors, design flaws or other problems; (D) may generate or produce inaccurate information or unexpected or incorrect results; (E) may cause loss of data or communications, project delays or other unpredictable damage or loss; (F) may never be released as a commercial version; and (G) may be discontinued by GoodData in whole or in part, at any time and without any obligation or liability to You or Your Users. The right and license to Previews will expire at a date specified to You by GoodData, or if no date is specified, then the earlier of 30 days following the date of general release of a Preview, or 180 days from the date the Preview was provided to You. This Section 2(h) will apply to Previews notwithstanding any contrary provision in this Agreement.

- j. **Trademark License.** Each party hereby grants to the other, a non-exclusive, non-transferable (except as set forth in 10(d) (*Assignment*)), worldwide license, without the right to sublicense, to use, during the Term of this Agreement, their respective trademarks, service marks and logos (collectively referred to as “**Marks**”) on their respective web sites or marketing materials in connection with (i) GoodData identifying You as a customer or You identifying yourself as a customer of GoodData; and (ii) in mutually agreed-upon collateral sales materials. Each party will only use and display the other party’s Marks and copyrighted information in accordance with the applicable guidelines provided by the other party. Each party will ensure that proper trademark and copyright notices are displayed at all times. All of the benefit and goodwill associated with a party’s use of the other party’s Marks will inure entirely to the Mark owner.
- k. **Conditional License.** The license rights granted in this Section 2 are subject to and conditioned upon Your compliance with this Agreement, any applicable Documentation, the Product Specific Terms, and any applicable Order or SOW.

### 3. Intellectual Property Rights.

- (a) **GoodData’s Ownership.** No title is granted, express or implied, nor will title be deemed assigned, to You hereunder to any of GoodData’s data or intellectual property, or any intellectual property of GoodData’s associates and licensors; GoodData retains all right, title, and interest, including all copyright, trade secret, patent, trademark and other proprietary rights, in and to GoodData’s Marks and in and to the GoodData Technology, and all modifications, enhancements, and other works derivative thereof. Other than Your and Your Customers’ and Users’ rights to access and use the GoodData Technology as set forth in this Agreement, no other license or grant of access to the GoodData Technology or intellectual property therein is provided to You.
- (b) **Your Ownership.** No title is granted, express or implied, nor will title be deemed assigned, to GoodData hereunder to any of Your intellectual property, or any intellectual property of Your associates and licensors; You retain all right, title, and interest, including all copyright, trade secret, patent, trademark and other proprietary rights, in and to Your Marks and in and to the Data Service (excluding the Software), and all modifications, enhancements, and other works derivative thereof. Other than GoodData’s rights to access and use the Data Service as set forth in this Agreement, no other license or grant of access to Your Data Service or intellectual property therein is provided to GoodData.
- (c) **Reservation.** GoodData expressly reserves the right to market and provide the GoodData Technology itself or through other resellers, distributors, licensees or agents, and You will not be entitled to any commission or compensation whatsoever in relation to the marketing or provision of the GoodData Technology by GoodData or its resellers, distributors or agents.
- (d) **Usage Data.** As permitted by law, You agree that GoodData and its Affiliates may process Usage Data transmitted to GoodData in order to improve GoodData’s products and services, better understand the needs of GoodData’s customers, and enforce the rights and obligations in this Agreement. You may disable all transmission of Usage Data to GoodData except as required for License Key authentication or GoodData’s enforcement of the license restrictions set forth in this Agreement or an applicable Order.
- (e) **Feedback.** From time to time, GoodData may request that You provide GoodData with verbal and/or written suggestions, comments or other feedback related to GoodData’s existing or prospective GoodData Technology, including, without limitation, any design input, troubleshooting or other assistance You provide in response to support requests (collectively, “**Feedback**”). You are not obligated to provide GoodData with Feedback. To the extent You or Your Users provide Feedback to GoodData, You hereby grant to GoodData a perpetual, irrevocable, royalty-free, fully-paid, sub-licensable, transferable (notwithstanding Section 10(d) (*Assignment*)), non-exclusive, worldwide right and license to exploit the Feedback in any manner without restriction (whether of confidentiality, compensation or otherwise). All Feedback is provided “AS IS” and You make no warranties whatsoever about any Feedback.

### 4. Confidential Information.

- (a) **Confidential Information Defined.** As used herein, “Confidential Information” means non-public information provided under this Agreement that the disclosing party designates at the time of disclosure as being confidential, or, if disclosed orally or visually, is identified as such prior to disclosure, or which, under the circumstances surrounding the disclosure, the receiving party knows or has reason to know should be treated as confidential without the need to be marked as such. Without limiting the foregoing, Confidential Information will include any information regarding a party’s financial condition, business opportunities, plans for development of future products, unreleased versions of products, know-how, technology, and Customer information. The GoodData Technology, License Key(s) and Ancillary Services, if any, will be deemed GoodData Confidential Information. Notwithstanding the foregoing, nothing received by a receiving party will be construed as Confidential Information which: (i) is generally available to the public without breach of this Agreement; (ii) is lawfully obtained from a third party without a duty of confidentiality; (iii)

is rightfully known to the receiving party prior to such disclosure; or (iv) is, at any time, developed by the receiving party independent of any such disclosure(s) from the disclosing party.

- (b) **Non-Disclosure.** The parties agree to use all reasonable care to prevent disclosure of the other party's Confidential Information to any third party. Notwithstanding the foregoing, either party may disclose Confidential Information to its employees, consultants, and other third-party providers solely to the extent necessary to exercise its rights or obligations under this Agreement (or any Order or SOW), provided that the party has a non-disclosure agreement in place with such third-party provider that protects such Confidential Information against disclosure in a manner no less protective than this Agreement and provided that the each party remains responsible for any breach of this Section 4 by such providers, as if they were that party's own employees. The foregoing notwithstanding, a receiving party may disclose the other party's Confidential Information to the minimum extent legally required if the information is required by law to be disclosed in response to a valid order of a court of competent jurisdiction or authorized government agency, provided that the receiving party must give the disclosing party prompt written notice, obtain or allow for a reasonable effort by the disclosing party to obtain a protective order prior to disclosure, and reasonably cooperate with disclosing party at disclosing party's request.
- (c) **Equitable Remedies.** If the receiving party discloses (or threatens to disclose) any Confidential Information of disclosing party in breach of this Section 4, the disclosing party will have the right, in addition to any other remedies available to it, to seek injunctive relief in a court of law to enjoin such acts, without the necessity of proving that other available remedies may be inadequate.
- (d) **Time Limit.** Upon any termination or expiration of this Agreement, the receiving party will continue to maintain the confidentiality of the disclosing party's Confidential Information for three years from date of receipt, except that source code will be held in confidence in perpetuity.

## 5. Fees and Payment.

- (a) **Fees.** In consideration for the Software license granted to You by GoodData under this Agreement, You agree to pay GoodData the fees stated in any applicable Order. All fees paid are non-refundable except as specified in Section 6(e) (*Remedies for Impacted Software*).
- (b) **Payment Terms.** Unless otherwise agreed in an Order or SOW, payments to GoodData will be made no later than 30 days following receipt of invoice from GoodData. If any fee payments become past due, GoodData reserves the right to temporarily suspend all Software usage rights until outstanding payments are paid in full. GoodData also reserves the right to charge a fee equivalent to 2% per month on all amounts past due. All payments will be made in the currency designated in Section 10(a) (*Contracting Entity and Governing Law*), unless otherwise agreed by the parties in writing, by bank-to-bank wire transfer, all charges prepaid, or by check drawn on a United States (for USD) or European Union (EU) or European Economic Area (EEA) (for Euros) bank. You are free to determine, in Your sole discretion, the prices at which You offer the Data Service to Your Customers.
- (c) **Taxes.** You will be responsible for and will indemnify and hold GoodData harmless against all international, country, state, province and/or local taxes of any government, including, but not limited to, sales and use tax (exclusive of taxes on GoodData's net income), duties and assessments arising on or measured by amounts payable to GoodData or arising out of or measured by amounts sold by You. If any applicable law requires You to withhold amounts from any payments to GoodData: (i) You will effect such withholding, remit such amounts to the appropriate authorities and promptly furnish GoodData with tax receipts evidencing the payments of such amounts; and (ii) in the event GoodData is required to remit the withholding, GoodData will make such payment, and the sum payable by You upon which the deduction or withholding is based will be increased to the extent required such that GoodData receives the gross amount owed by You notwithstanding such withholding.
- (d) **No Set-Off.** You will not set-off or offset against GoodData's invoices amounts that You claim are due to You by GoodData or any amounts resulting from any billing or collection disputes between You and a Customer. You will bring any claims or causes of action You may have in a separate action and waive any rights You may have to offset, set-off, or withhold payment for the Software or Ancillary Services delivered by GoodData.
- (e) **Currency Control.** You represent and warrant that, as of the Effective Date of this Agreement, no currency control laws applicable in countries other than the United States where You conduct the activities under the Agreement will prevent the payment to GoodData of any sums due under this Agreement. If any such laws come into effect and the local government of the territory where payment will be made does not permit that payment be made in the designated currency set forth in Section 10(a) (*Contracting Entity and Governing Law*), You will notify GoodData immediately, and if so instructed by GoodData, deposit all monies due GoodData to the account of GoodData in a local bank of GoodData's choice in the affected country.

## 6. Indemnification.

- (a) **Your Obligations.** Subject to the remainder of this Section 6, You will: (i) defend and hold harmless GoodData and its Affiliates (including GoodData's and its Affiliates' directors, officers, and employees), against any claim, action, suit or proceeding (each, a "**Claim**") brought by a third party (including a Customer or a User) to the extent it is related to: (A) the Data Service (excluding the Software), including any intellectual property rights therein and use and performance thereof; (B) Your, Your Customer's or any User's violation of this Agreement, applicable Order, SOW, or any applicable law or regulation; (C) an agreement granting access to the Data Services between You and Your Customer or between one Customer and another Customer; (D) materials supplied by You, Your Customers, or any Users for use alongside the Software (including as included in the Data Service) (including, without limitation, any product-related documentation that is not GoodData Technology); or (E) any Claim brought by a Customer or User in connection with this Agreement; and (ii) indemnify GoodData from any resulting liabilities, losses, damages, fines, penalties, judgments, settlement amounts, regulatory fines, costs and expenses incurred by GoodData in connection with such Claim(s).
- (b) **GoodData Obligations.** Subject to the remainder of this Section 6, GoodData will: (i) defend You and your Affiliates (including Your and Your Affiliates' directors, officers, and employees) against any third party Claim that under the laws of the United States, Canada, the United Kingdom,

Switzerland, the European Economic Area, Australia, New Zealand or Japan, the Software infringes any patent, trademark or copyright of such third party or misappropriates a trade secret (but only to the extent that such misappropriation is not a result of Your actions) (“**Infringement Claim**”); and (ii) indemnify You from any resulting liabilities, losses, damages, fines, penalties, judgments, settlement amounts, regulatory fines, costs and expenses incurred by You in connection with such Claim(s).

- (c) **Exclusions.** Notwithstanding the foregoing, GoodData will have no obligation under this Section 6 or otherwise with respect to any Claim(s) which would not have arisen but for: (i) a combination of GoodData Technology with non-GoodData products or services; (ii) use of the Software in violation of this Agreement, an Order, or the Documentation; (iii) any modification to the Software made by You, a Customer, or a User without GoodData’s express written approval; (iv) OSS; or (v) any modifications to the Software to Your specifications made by or on behalf of GoodData. Additionally, GoodData will have no obligations or liability toward You whatsoever for any use of the Software: (A) after Your licenses to the Software have been effectively terminated; or (B) 30 days after a new version of the Software has been made available to You and You have been notified of a need to upgrade due to a potential legal issue with an older versions of the Software. THIS SECTION 6 STATES YOUR SOLE AND EXCLUSIVE REMEDY AND GOODDATA’S ENTIRE LIABILITY FOR ANY THIRD PARTY INFRINGEMENT CLAIMS OR ACTIONS.
- (d) **Indemnification Procedures.** The indemnifying party hereunder will provide the aforementioned obligations in Sections 6 (a) or (b) provided that the indemnified party: (i) promptly provides the indemnifying party with notice of such Claim provided that the indemnifying party’s indemnity obligations will be waived only if and to the extent that its ability to conduct the defense are materially prejudiced by a failure to give such notice; (ii) allows the indemnifying party sole control over the defense thereof and related settlement negotiations; and (iii) reasonably cooperates in response to the indemnifying party’s requests for assistance. Neither party may settle or compromise an indemnifiable claim without the indemnified party’s prior written consent, not to unreasonably be withheld.
- (e) **Remedies for Impacted Software.** If GoodData believes the Software might become the subject of an Infringement Claim, GoodData will, at GoodData’s option and expense either: (i) procure the rights necessary for You to make continued use of the affected Software in accordance with this Agreement; (ii) replace or modify the affected Software to make it non-infringing; or (iii) terminate all licenses to the affected Software, and refund any pre-paid fees attributable to such Software.

## **7. Warranties and Disclaimers.**

- (a) **Warranties.** Each party warrants that it has the legal authority to enter into this Agreement. GoodData warrants to You that: (i) the unmodified Software will materially conform to the relevant feature and functionality descriptions set forth in the Documentation; (ii) the Software will be free of viruses and other malicious code; and (iii) Ancillary Services will be performed in a competent and workmanlike manner in accordance with generally accepted industry standards. Your sole and exclusive remedy for GoodData’s breach of these warranties will be GoodData’s provision of Support Services to You or prompt re-performance of the Ancillary Services, as applicable, provided that You provide GoodData with reasonably detailed notice of the breach. THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE EXCLUSIVE TO YOU AND DO NOT APPLY TO YOUR CUSTOMERS.
- (b) **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 7(a), THE GOODDATA TECHNOLOGY IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. GOODDATA DOES NOT REPRESENT THAT YOUR OR YOUR CUSTOMERS’ USE OF THE GOODDATA TECHNOLOGY WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR THAT THE GOODDATA TECHNOLOGY WILL MEET YOUR OR YOUR CUSTOMERS’ REQUIREMENTS OR THAT ALL ERRORS IN THE GOODDATA TECHNOLOGY WILL BE CORRECTED. EXCEPT AS EXPRESSLY SET FORTH HEREIN AND TO THE EXTENT PERMITTED BY LAW, GOODDATA MAKES NO ADDITIONAL EXPRESS WARRANTIES AND EXPRESSLY DISCLAIMS AND EXCLUDES, ON BEHALF OF ITSELF AND ITS AFFILIATES AND LICENSORS, ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION ANY WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (c) **Third Party Applications.** The Software may include URL links or integrations with Third-Party Applications to facilitate Your use of such Third-Party Applications, at Your sole discretion. Notwithstanding the foregoing, any procurement or use of Third-Party Applications is solely between You and the applicable third party, and GoodData will have no liability for such Third-Party Applications. GoodData cannot guarantee the continued availability of such Third-Party Applications or the Software’s integration with them, and may cease providing the integrations without entitling You to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third-Party Application ceases to make the Third-Party Application available for interoperation with the Software in a manner acceptable to GoodData.

## **8. Limitation of Liability.**

- (a) **Exclusion of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY (INCLUDING ITS DIRECTORS, OFFICERS AND EMPLOYEES) OR ANY OF ITS AFFILIATES, LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COVER, SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- (b) **Limitation of Liability.** EXCEPT WITH RESPECT TO YOUR PAYMENT OBLIGATIONS HEREUNDER, IN NO EVENT WILL EITHER PARTY (INCLUDING ITS DIRECTORS, OFFICERS AND EMPLOYEES) BE LIABLE IN THE AGGREGATE FOR AN AMOUNT EXCEEDING THE SOFTWARE FEES PAID BY YOU DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY. NEITHER PARTY’S AFFILIATES, LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS WILL HAVE ANY LIABILITY OF ANY KIND UNDER THIS AGREEMENT. You may not bring a claim under this Agreement more than 18 months after the cause of action arises.

- (c) **Exceptions.** Notwithstanding Sections 8(a) and 8(b), nothing in this Agreement limits or excludes the liability or obligations of party for: (i) death or personal injury caused by such party or its gross negligence, willful misconduct, fraud, or fraudulent misrepresentation; (ii) each party's indemnity obligations hereunder; or (iii) each party's Confidentiality obligations hereunder.

**9. Term and Termination.**

- (a) **Term.** This Agreement will commence on the date You accept this Agreement and will remain in effect until terminated in accordance with Section 9(b) ("**Term**").
- (b) **Mutual Termination.** Either party may terminate this Agreement upon written notice if the other party materially breaches this Agreement and fails to correct the breach within 30 days following written notice specifying the breach. Either party may terminate an Order or SOW upon written notice if the other party materially breaches this Agreement or the applicable Order or SOW and fails to correct the breach within 30 days following written notice specifying the breach. Ancillary Services are separately ordered from the Software and are not required for the Software. A breach by a party of its obligations with respect to Ancillary Services will not by itself constitute a breach by that party of its obligations with respect to the Software even if enumerated in the same Order. If there are no SOWs or Orders in effect, You may terminate this Agreement for convenience upon written notice to GoodData.
- (c) **Effect of Termination.** Upon termination or expiration of this Agreement all rights and licenses granted to You hereunder will immediately cease and each party will return or destroy (or in the case of electronic information, render practicably inaccessible) the Confidential Information of the other. Additionally, each party will cease using the other party's Marks. Termination of this Agreement will not limit either party from pursuing any other remedies available to it, including injunctive relief, nor will such termination relieve any obligation to pay all fees that have accrued or are otherwise owed under this Agreement. The parties' rights and obligations under Sections 1, and 3-10 will survive the expiration or earlier termination of this Agreement.

**10. General.**

- (a) **Contracting Entity and Governing Law.** The parties agree to first seek to amicably manage and resolve misunderstandings or disputes by escalating the same to their respective executives for timely consideration. This Agreement and all relations, disputes, claims and other matters arising hereunder (including non-contractual disputes or claims) will be governed exclusively by, and construed exclusively in accordance with, the laws of the jurisdictions set forth in the following table, as determined by the country of Your domicile (as indicated in the first column), without regard to conflicts of laws provisions. To the extent permitted by law, choice of laws rules and the United Nations Convention on Contracts for the International Sale of Goods will not apply. For the purposes of adjudicating any action or proceeding to enforce the terms of this Agreement, the parties hereby irrevocably consent to the exclusive jurisdiction of, and venue in, any national or provincial court of competent jurisdiction located in the venue indicated in the table corresponding to Your domicile (subject to Section 10(o) (*Disputes and Arbitration*)). "**GoodData**" as a party to this Agreement will mean the GoodData contracting entity indicated in the second column of the table corresponding to Your domicile. The prevailing party in any claim or dispute between the parties under this Agreement will be entitled to reimbursement of its reasonable attorneys' fees and costs.

Your Domicile	GoodData Contracting Entity	Jurisdiction	Venue	Notice Address	Designated Currency
Switzerland, the United Kingdom, or any country which is a member of the European Economic Area	GoodData Ireland	Ireland	Dublin, Ireland	Attn: General Counsel 12 Merrion Square Dublin 2 Dublin, Ireland with copy to <a href="mailto:legal@gooddata.com">legal@gooddata.com</a> .	EUR
Anywhere worldwide other than the above	GoodData Corporation, a Delaware corporation	The State of California	San Francisco, California	Attn: General Counsel 1 Post St. Suite 400 San Francisco, CA 94104 with copy to <a href="mailto:legal@gooddata.com">legal@gooddata.com</a> .	USD

- (b) **Compliance with Law.** Both parties will comply with all applicable laws and regulations in the performance of this Agreement. You will not engage in any deceptive or unethical trade practices or any act which might harm GoodData's reputation or the reputation of the GoodData Technology. You will comply with all applicable anti-corruption laws and regulations ("**Anti-Corruption Laws**") including but not limited to the United States Foreign Corrupt Practices Act and the UK Bribery Act, irrespective of whether You are legally subject to it. You will not cause GoodData to violate any Anti-Corruption Laws in connection with any activities related to GoodData or GoodData Software (collectively, the "**Activities**"). You will not, in connection with the Activities, pay, offer, promise, or authorize the payment or transfer of anything of value, directly or indirectly, to any other person or entity for the purpose of improperly obtaining or retaining business, for any other advantage for GoodData, or for any other purpose prohibited by any Anti-Corruption Laws.
- (c) **Export Controls.** The GoodData Technology is of United States origin and is provided subject to the U.S. Export Administration Regulations and the regulations of other jurisdictions (e.g., the European Union). Diversion contrary to applicable law is prohibited. Without limiting the foregoing, You warrant that: (i) You are not, and You are not acting on behalf of, any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States or other applicable government body has prohibited export transactions (e.g., Iran, North

Korea, etc.); (ii) You are not, and You are not acting on behalf of, any person or entity listed on a relevant list of persons to whom export is prohibited (e.g., the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, the U.S. Commerce Department Denied Persons List or Entity List, etc.); and (iii) You will not use any GoodData Technology for, and will not permit any GoodData Technology to be used for, any purpose prohibited by applicable law.

- (d) **Assignment.** Neither party may transfer or assign its rights under this Agreement without the prior consent of the other party. Notwithstanding the foregoing, a party may assign this Agreement, and such assignment is hereby expressly consented to, in connection with the sale, merger or other corporate combination involving all or substantially all of the assets of the assigning party to a third party provided that the assignee assumes all of the assigning party's obligations and liabilities hereunder. Any attempted assignment in violation of this paragraph is void. This Agreement will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.
- (e) **Severability.** If any provision or part of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, the parties intend that the court will modify the provision to the minimum extent necessary to make it valid and enforceable, or if it cannot be made valid and enforceable, the parties intend that the court will sever and delete the illegal, invalid, or unenforceable provision or part from this Agreement. Any change to or deletion of a provision or part of this Agreement under this Section 10(e) will not affect the validity or enforceability of the remaining provisions of this Agreement, which will continue in full force and effect.
- (f) **Waiver of Breach.** No delay or omission by either party to exercise any right or power arising upon the other party's nonperformance or breach will impair that right or power or be construed as a waiver of it. Any waiver must be in writing and signed by the waiving party. A waiver on one occasion will not be construed as a waiver of any subsequent event of nonperformance or breach.
- (g) **Injunctive Relief.** Any breach of the confidentiality or intellectual property rights terms under this Agreement by either party hereunder will result in harm and economic loss to the other party not compensable by monetary damages. Either party will be entitled to seek an injunction against such breach or threatened breach from a court of law, in addition to other legal or equitable remedies, and without the need to post a bond or other financial security for such injunctive relief.
- (h) **Force Majeure.** Except for the obligation to make payments, performance under this Agreement will be postponed automatically to the extent that either party is prevented from meeting its obligations by causes beyond its reasonable control, including but not limited to acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, public health emergencies (including pandemics and epidemics), acts or orders of government, acts of terrorism, or war.
- (i) **Notices and Consent to Electronic Communication.** You will receive electronic communications and notifications from GoodData in connection with the products and services to be provided hereunder and the Agreement generally. If You choose to opt out of receiving such messages, You accept all liability caused by or associated with foregoing such communications. You agree that any such communication will satisfy any applicable legal communication requirements, including that such communications be in writing. GoodData may provide You with notices by email to the email address that You registered with (and/or other alternate email address You have provided), or by regular mail. You will be deemed to have received any email sent to the email address then associated with Your account when GoodData sends the email. All notices and requests in connection with this Agreement required to be given by You to GoodData will be given in writing to the applicable address(es) specified in Section 10(a) (*Contracting Entity and Governing Law*).
- (j) **No Agency.** The parties acknowledge that each is an independent contractor and nothing herein constitutes a joint venture, partnership, or distributor relationship. You have no right to vary any policies, conditions, representations or warranties made by GoodData, and neither party has the right to bind or act for the other as an agent or in any capacity except as expressly provided in writing by amendment to this Agreement.
- (k) **Records.** During the Term of this Agreement and for one year thereafter, You will retain records of Your activities under this Agreement sufficient to show your compliance with this Agreement. During this period, GoodData will have the right to audit Your records relating to Your performance under this Agreement and to verify that You have fulfilled Your obligations under this Agreement, and You will reasonably cooperate with GoodData or its third party auditor (provided such auditor is subject to a confidentiality agreement). Any such audit shall be conducted during normal business hours on a date mutually acceptable to both parties, will not unreasonably interfere with Your business activities, and GoodData will provide at least ten (10) business days' prior notice. The audit shall be conducted at GoodData's expense, unless the audit reveals that You have materially breached Your obligations under Section 2(b)-(c), the audit reveals that You have underpaid GoodData by more than 5% for the Software fees payable by You for the period audited, or that You have materially failed to maintain accurate records. If You have underpaid GoodData any sums, You will promptly pay GoodData the outstanding amounts due plus interest at a monthly effective rate of 2% for the period of the underpayment. In the event that You self-disclose such underpayment, and the disclosure is not immediately after the notification of an audit, all interest will be waived and your obligation will be limited to the underpayment. Such audits will not be conducted more than once in any period of 12 consecutive months, or twice during the same time period in the event that an audit reveals a material breach of Your obligations hereunder.
- (l) **Entire Agreement.** This Agreement, including all schedules and attachments, together with any Orders and SOWs, contains the complete and exclusive statement of the agreement between the parties with respect to the products and services provided hereunder and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings and negotiations with respect to the subject matter hereof. If there is any conflict of inconsistency, the following order will apply: Order, SOW, the Agreement. The terms of this Agreement apply to the exclusion of any other terms that You may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any purchase order submitted by You is for Your internal purposes only and its terms and conditions are superseded and replaced by this Agreement. Except as otherwise set forth in this Agreement, no modification, amendment, or waiver of any provision of this Agreement will be effective unless it specifically references this Agreement, explicitly expresses a desire to amend this Agreement, is set forth in writing and is signed by the parties. You acknowledge that You have not relied on any statement, promise or representation made or given by or on behalf of GoodData that is not set

out in this Agreement. Your Orders are not contingent on, and You have not relied on, the delivery of any future functionality regardless of any verbal or written communication about GoodData's future plans.

- (m) **Counterparts.** This Agreement may be signed in counterparts and by facsimile, each of which will be considered an original document, but together which will constitute one complete document.
- (n) **Controlling Language.** This Agreement has been prepared and executed in the English language only, which language will be controlling in all respects. Any translations of the provisions of this Agreement into any other language are for reference only and will have no legal or other effect. Any notice that is required or permitted to be given by one party to the other under this Agreement must be in the English language and in writing. All proceedings related to this Agreement will be conducted in the English language. *Les parties aux présentes ont formellement demandé à ce que la présente convention et tous les documents auxquels celle-ci réfère soient rédigés et signés en langue anglaise.*
- (o) **Disputes and Arbitration.** This Section 10(o) will only apply to You if the GoodData entity which is a party to this Agreement is GoodData Corporation per Section 10(a) (*Contracting Entity and Governing Law*). Subject to Section 4(c)(*Equitable Remedies*) and Section 10(g) (*Injunctive Relief*), any dispute, claim or controversy arising out of or relating to this Agreement (including all SOWs and Orders) or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, will be determined by arbitration in San Francisco, California, before one arbitrator. The arbitration will be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause will not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitrator may, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party (as defined by California Civil Code Section 1717).
- (p) **US Government Rights.** GoodData Technology is commercial computer software and all services are commercial items. "**Commercial computer software**" has the meaning set forth in Federal Acquisition Regulation ("**FAR**") 2.101 for civilian agency purchases and the Department of Defense ("**DOD**") FAR Supplement ("**DFARS**") 252.227-7014(a)(1) for defense agency purchases. If software is licensed or the services are acquired by or on behalf of a civilian agency, GoodData provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the services are acquired by or on behalf of any agency within the DOD, GoodData provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS or other clause or provision that addresses Government rights in computer software or technical data.