

## DENODO SOFTWARE END USER LICENSE AGREEMENT

This Software End User License Agreement (this “EULA”), is entered into between Denodo Software (Beijing) Co. Ltd. with offices at Suite 1118-08, China World Office 1 No.1 Jianguomenwai Dajie, Chaoyang District, Beijing, 100004, P.R. China and registered under Unified Social Credit No. 91110105MA01Q7CPXK (“Denodo”), and \_\_\_\_\_, China (“Customer”), regarding the software license and services set forth herein, and shall be effective as of the earliest Effective Date (as defined below) of any Order between the parties.

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

### I. Definitions

- I.1 “Affiliate” means, with respect to an entity, any company, corporation, partnership or other entity that, now or hereafter, directly or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such entity, where “Control” (and its derivatives) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such entity, whether through the ability to exercise voting power, by contract or otherwise, and in any event and without limiting the foregoing, any entity having the rights to more than 50% of the equity, ownership or voting rights for such entity shall be deemed to control such entity.
- I.2 “Applicable Data Protection Laws” shall mean
- (a) The related laws and regulations of the People’s Republic of China on data protection;
  - (b) Any applicable domestic legislation protecting individuals’ right to privacy and restricting international data transfers, including important data.
- I.3 “Confidential Information” means any information disclosed by either party (and/or its Affiliates) to the other party while this EULA is in effect, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, the Software, Documentation and the terms of this EULA), which is designated as “Confidential,” “Proprietary” or some similar designation or which would be reasonably understood to be confidential in nature. Information communicated orally will be considered Confidential Information if such information is confirmed in writing as being Confidential Information within a reasonable time after the initial disclosure. Information obtained by Customer via reverse engineering of Denodo Software shall be considered as Confidential Information of Denodo. Confidential Information may also include information disclosed to a receiving party by third parties. Confidential Information will not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of

the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; or (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession.

- I.4 **"Controller", "Processor", "Sub-processor", "Processing", "Personal Data", "Special Categories of Personal Data", "Personal Data Breach", "Data Subjects", "Supervisory Authority", "Data Protection Impact Assessment"**, and any other related data protection terms, shall have the meaning given in Applicable Data Protection Laws.
- I.5 **"Denodo"** for purposes of this EULA "Denodo" may refer to Denodo Software (Beijing) Co., Ltd. and any of its Affiliates.
- I.6 **"Documentation"** means any user instructions, manuals or other materials, and on-line help files regarding the use of the Software if and as provided by Denodo in connection with the Software in English only.
- I.7 **"Effective Date"** means the date of the applicable Order, as set forth therein.
- I.8 **"Improvements"** means any and all modifications, enhancements and corrections to the Software made by Denodo or its designees, including changes and/or corrections made in response to Maintenance and Support requests, all additions, updates, new versions and new features, and changes made by Denodo in response to legal, technological or other developments.
- I.9 **"Governmental Authorities"** means any central government, provincial, local, foreign or other ruling authority, instrumentality, or regulatory body.
- I.10 **"License Term"** shall have the meaning ascribed thereto in the applicable Order.
- I.11 **"Maintenance and Support"** means the services described in Section V.
- I.12 **"Order"** means the order agreed upon by Customer and Partner documenting Customer's purchase of a license to access the Software and any related Services. This Agreement shall be incorporated by reference into any such Order.
- I.13 **"Partner"** means the Denodo-approved reseller that is a party to the Order with Customer, and to whom Customer remits any payment owed in consideration of the Software or Services provided under this EULA.
- I.14 **"Partner Fees"** shall have the meaning set forth in Section IV.
- I.15 **"Professional Services"** means the professional services set out in the applicable Order.
- I.16 **"Security Interest"** means any interest or arrangement of any kind that secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property regardless of the form of the transaction.
- I.17 **"Services"** means the Maintenance and Support, Training Services, and Professional Services set forth in the applicable Order.
- I.18 **"Software"** means the computer software programs set forth in the applicable Order,

including all Improvements, as applicable, to which Customer may receive access.

Customer, notwithstanding any degree of negligence or fault by Customer.

I.19 **“Statement of Work”** means the statement of work in respect of Professional Services, appended and incorporated by reference to the applicable Order or as may be entered into from time to time.

I.20 **“Support Site”** means Denodo’s support website <https://support.denodo.com> (or any subsequent site designated by Denodo), as may be updated by Denodo from time to time.

I.21 **“Training Services”** means the training services set forth in an Order.

I.22 **“Update”** means a release or version of the Software containing functional enhancements, extensions, error corrections or fixes that are generally made available free of charge by Denodo from time to time and in its sole discretion, to customers that have contracted for Maintenance and Support. Update may also be referred to as a “Minor Update”, as further set forth in Denodo’s support policies located on the Support Site.

I.23 **“Upgrade”** means a Major Release (as defined in Denodo’s support policies located on the Support Site <https://support.denodo.com> (or any subsequent site designated by Denodo) of the Software that may be offered by Denodo from time to time and in its sole discretion, to customers that have contracted for Maintenance and Support.

I.24 **“Users”** means those employees or contractors of Customer who are entitled to access and use the Software pursuant to this EULA, as may be further defined or restricted in an Order. Customer shall be responsible for any action or effect caused by any such Users which would be held as a breach of this EULA if undertaken by

## II. Grant of License

II.1 **Grant.** Subject to the terms and conditions of this EULA, including, without limitation, the restrictions in Article III and timely payment of Partner Fees, Denodo hereby grants to Customer a non-exclusive, non-sublicensable and non-transferable (subject to Section IX.1) license during the License Term (subject to termination of this EULA) allowing Customer and its Users to (a) use the Software for its own internal information processing services and computing needs, and (b) use the Documentation in connection with the licensed use of the Software. Customer acknowledges that Denodo will retain title to the Software and Documentation and all Improvements, and that nothing in this EULA or during or in connection with the use of the Software shall be construed as an assignment to the Customer of any right, title or interest in or to the Software. Denodo hereby reserves all rights in and to the Software, Documentation, or any copyrights, patents, know-how, or trademarks, embodied or used in connection therewith, except for the rights expressly granted herein.

II.2 **Delivery and operation.** The Software, including all Improvements thereto which Customer may be eligible to receive as provided otherwise in this EULA, and the Documentation, will be made available to Customer by electronic transmission or download from Denodo, and no tangible medium containing the Software, or any Updates or Upgrades thereto, or the Documentation will be delivered to Customer unless being separately agreed by both parties in writing. Customer acknowledges that no copy of the source code of the Software will be provided to Customer. Denodo shall have no obligation to deliver any source code hereunder.

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Customer confirms and acknowledges that Denodo shall not be liable for delay or lack of delivery or operation of Software due to import or export restrictions or procedures, registration or approval requirements, legal limitations, sanctions or conditions imposed by any Governmental Authority. In the event this EULA and any act arising out of this EULA require registration with and/or approval of the competent Governmental Authority under Chinese applicable laws, in particular in relation to technology import or export, Customer shall be responsible for complying with the Chinese applicable laws and completing the registration and/or approval procedures for this EULA, its schedules, amendments, and extensions in a timely manner at its own cost and provide Denodo with a copy of proof upon request of Denodo.

Denodo shall not be liable for technical disruptions, insufficient Internet connection or lack of access to download links etc. by Denodo due to firewalls or security settings by Governmental Authority in the territory of Customer (the "Territory").

II.3 **Copies.** Customer may make a reasonable number of machine-readable copies of the Software strictly for its own use and for backup or archival purposes only, and a reasonable number of copies of the Documentation if strictly required in order to exercise the license in [II.1](#). Customer shall keep written records of the location and recipients of any such copies and shall not share the same with third-parties except to the extent expressly permitted hereunder. Customer shall not copy the Software or part of the Software, except as permitted by this EULA, and shall not publish, register, pass on or make available any copies to any third party. Customer shall maintain accurate and up-to-date records of

the recipients, number and location of all copies of the Software and Documentation and inform Denodo in writing of such recipients and location; if any consent of recipients is required under the Applicable Data Protection Laws, customers shall be responsible to obtain it. All copies of the Software will be subject to all terms and conditions of this EULA. Whenever Customer is permitted to copy or reproduce all or any part of the Software and/or Documentation, Customer shall reproduce and not efface any and all titles, trademark symbols, copyright symbols and legends, and other proprietary markings on the Software and/or Documentation. Customer shall not circumvent, erase, pass on, modify or manipulate any technical protection measures which relate to or are part of the Software, including license keys.

For clarity, Documentation will only be provided by Denodo in English. Denodo is not responsible for any unauthorized translation of the Documentation into Chinese or other languages and any result of use of such translations. Customer shall be solely and fully responsible for any damage, claim (including by employees or third parties) or technical effect of the use or reliance on any translation not provided by Denodo; if Customer arranges translation of the Documentation, Customer shall exercise the same standards of care as it treats the copies of Documentation by keeping accurate records and ensuring strict confidentiality of the translation.

II.4 **Re-Installation and Upgrades.** Customer may only request new license keys in order to (i) re-install its current version of the Software, following a written statement signed by a duly authorized officer that such re-installation is required, or (ii) install an Upgrade, then Customer agrees that within thirty (30) days following the installation of any such re-installation or Upgrade it shall, without prejudice to all obligations for

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Customer under the terms and conditions hereunder, cease all use of the license keys corresponding to any earlier versions and certify this in writing to Denodo including a written statement that Customer agrees to be held liable in case of any breach of this EULA related to re-installation; use without such written certification shall be deemed a material breach of this EULA and entitle Denodo to liquidated damages. Nothing in this Section II.4 shall be deemed to require Denodo to make available any Upgrades to Customer.

### III. License Restrictions

III.1 **Types of Licenses.** Customer shall abide by the following applicable restrictions, and as indicated on the Order. The use of the applicable licenses for Production and Non-Production purposes, each as defined below, are extended to Customer and Users, subject to Customer's timely payment of all Partner Fees and to the limitations set forth in the Order as well as herein below:

(a) **Production License.** If a "Production License" is indicated on the Order, Customer may use the Software and Documentation solely for its own computing needs during the License Term (subject to termination of this EULA), and not on behalf of any other entity or third party, under the restrictions of use indicated on the Order.

(b) The following license types shall each be considered a "Non-Production" license:

i **Development License.** If a "Development License" is indicated on the Order, Customer may use the Software and Documentation for developing, testing and debugging using the Software capabilities and for obtaining interoperability between

the Software and Customer's own applications, solely for its own development purposes during the License Term (subject to termination of this EULA), and not on behalf of any other entity or third party, under the restrictions of use indicated on the Order, and notwithstanding the terms of ~~II.1~~, never for production or "run-time" use purposes.

ii **Staging License.** If a "Staging License" is indicated on the Order, Customer may use the Software and Documentation solely for testing the Software in an environment as similar to the production environment as possible and to simulate the run-time behavior of the Software under similar conditions than in current operation when satisfying its own computing, solely for its own purposes during the License Term (subject to termination of this EULA), and not on behalf of any other entity or third party, under the restrictions of use indicated on the Order, and notwithstanding the terms of ~~II.1~~, never for production or "run-time" use purposes.

iii **Hot Backup License.** If a "Hot Backup License" is indicated on the Order, Customer may use the Software and Documentation solely in combination with a Production License for maintaining a ready to use copy of the Software already installed in the production environment to enter automatically into production when the Production License stops working, solely for its own purposes during the License Term (subject to termination of this EULA), and not on behalf of any other entity or third party, under the restrictions of use indicated on the Order, and notwithstanding the terms of ~~II.1~~, never for production or "run-time" use purposes.

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iv **Cold Backup License.** If a "Cold Backup License" is indicated on the Order, Customer may use the Software and Documentation solely in combination with a Production License for maintaining a ready to use copy of the Software already installed on a server used as an offline ("cold") backup, to help Customer recover in case of a catastrophic event, solely for its own purposes during the License Term (subject to termination of this EULA), and not on behalf of any other entity or third party, under the restrictions of use indicated on the Order, and notwithstanding the terms of II.1, never for production or "run-time" use purposes.

v **Personal Developer License.** If a "Personal Developer License" is indicated on the Order, Customer may use the Software and Documentation installed on a workstation (not server) for developing, testing and debugging using the Software capabilities and for obtaining interoperability between the Software and Customer's own applications, solely for its own development purposes before deploying the development on a development server during the License Term (subject to termination of this EULA), and not on behalf of any other entity or third party, under the restrictions of use indicated on the Order, and notwithstanding the terms of II.1, never for production or "run-time" use purposes.

vi **Client Access License.** If a "Client Access License" is indicated on the Order, Customer may use the Software and Documentation only (1) for web automation agents ("wrappers") development and (2) to remotely connect in client mode to a Denodo server for (i) data sources connectivity configuration, (ii) Denodo

server administration tasks, (iii) remote development of data models, and (iv) web wrapper deployments. This license does not allow the direct execution of any Denodo server and has to be used in conjunction with a Production License, Development License or Staging License.

vii **Evaluation License.** If an "Evaluation License" is indicated on the Order, Customer may use the Software and Documentation solely for evaluation and demonstration of the Software in an environment as similar to the production environment as possible and to simulate the run-time behavior of the Software under similar conditions than in current operation when satisfying its own computing, during the License Term (subject to termination of this EULA), and not on behalf of any other entity or third party, under the restrictions of use indicated on the Order, and notwithstanding the terms of II.1, never for production or "run-time" use purposes.

III.2 **Additional Restrictions.** Customer shall abide by any other restriction indicated on the Order or hereunder, and shall not itself, or through any parent, subsidiary, Affiliate, agent or other third party: (a) sell, resell, lease, lend, transfer, assign, license or sublicense, republish, distribute or display the Software or the Documentation; (b) decompile, disassemble, or reverse engineer the Software, in whole or in part, or disclose information obtained via reverse engineering to third parties (except as permitted under applicable law); (c) allow access to the Software by any person or entity that is not a User; (d) write or develop any derivative software or any other software program based upon the Software or any Denodo Confidential Information (except to the extent that such restriction is not permitted under applicable law); (e) use the Software on a

“service bureau” basis including granting other rights in the Software such as rights on a membership or subscription basis and providing use of the Software in a computer service business, third party facility or service, service bureau arrangement, time sharing basis, or as part of a hosted service; (f) provide to any third party the results of any benchmark tests or other evaluation of the Software without Denodo’s prior written consent; (g) misuse the Software or use the Software for any illegal, threatening, harmful, obscene, harassing, racially or ethnically offensive or fraudulent purposes; (h) use the Software in a manner which would cause a material risk to the security of operations of Denodo and its Affiliates or any of its customers, or the continued normal operation of their customers; (i) remove, obscure, or alter any proprietary notices associated with the Software or Documentation; (j) violate anyone’s intellectual property rights in using the Software; (k) attempt to disable, impair, or destroy the Software; (l) upload, transmit, store, or make available any content or code while using the Software that contains any viruses, malicious code, malware, or any components designed to harm or limit the functionality of the Software; (m) use the Software in any device or system in which a failure or fault of any kind of the Software could reasonably be seen to lead to death or serious injury of any person, or to severe physical or environmental damage; (n) use the Software in a way that is discriminatory based on race, gender, color, religious belief, sexual orientation, disability, or is otherwise illegal, or causes damage or injury to any person or any property; (o) violate applicable law, including without limitation on cyber security and data privacy; (p) use the Software for the purpose of comparative or competitive analysis of the Software, developing, using, or providing a competing software product or services, or any other purposes that is to Denodo’s detriment or

commercial disadvantage (except to the extent that such restriction is not permitted under applicable law); (q) provide, disclose, divulge or make available to, or permit use of the Software by any third party without Denodo’s prior written consent; or (r) create or permit to exist a Security Interest over any of the Customer’s rights under the license granted under Section II; or (s) deal or use illegal copies of the Software or Documentation which were originally distributed or intended for distribution outside the Territory; or that are not sold in compliance with the terms and restrictions herein, including any Updates or Upgrades.

- III.3 **Viral Open Source Licenses.** The Software shall not be integrated or combined with any software that is licensed as a Viral Open Source Software. Customer will be liable for any action it takes or permits that could subject Denodo or the Software to the obligations of “Viral Open Source Licenses” which require (as a condition of use, modification or distribution) that software be: a) disclosed or distributed in source code form; b) licensed for the purpose of making derivative works or c) redistributed at no charge.
- III.4 **Breach of Restriction.** If Customer breaches any of the provisions in Articles III.1, III.2 and III.3, Denodo shall be entitled, but not be obliged, to terminate this EULA pursuant to Article IX.3(c) without prejudice to all its other rights and remedies within this EULA or under the applicable law. Customer shall hold Denodo harmless and indemnify Denodo in case of any claims threatened or raised against Denodo in connection with or arising out of any breach of Articles III.1, III.2 and III.3 in accordance with Article VII.4(c). Such obligation shall survive expiration or termination of this EULA.
- III.5 **License Term.** Customer may use the Software for the License Term indicated on the Order

(subject to termination of the EULA), commencing on the Effective Date.

III.6 **Audit.** Upon the prior written notice by Denodo, Customer shall make available to Denodo, and Denodo or independent third party auditors mutually agreed upon by the parties shall have the right on reasonable notice and usually no more often than once a year to inspect and audit the Customer's relevant books, records, premises, IT systems and equipment to determine whether Customer is in compliance with its obligations hereunder; Customer shall enable and support such audit, provide all documents and grant full access to all systems, passwords and people required, premises and locations for such audit during regular business hours. In the event such audit reveals a breach of Customer's obligations hereunder, in addition to any other rights that Denodo may have under applicable law, Customer shall pay the actual and reasonable costs of such audit.

## IV. Fees

IV.1 **Payment of Fees.** In consideration of the license granted pursuant to Section ~~II.1~~, and Services provided hereunder, Customer shall to Partner all fees set forth in the Order..

IV.2 **Failure to pay.** In case Customer fails to pay any amount due under this EULA according to the payment terms in the Order Denodo may, at its sole discretion, terminate this EULA (Termination for Cause) as stipulated in clause X3 (b) hereunder, or suspend, restrict the provision, access and use of the Software and related Services, if any, via for example invalidating or suspending of license keys, without any liability for any consequences, losses or damages caused thereby. For clarity, the right to terminate

shall continue to apply and not be suspended, waived or restricted in any way in case of suspension or restriction of use of the Software as stipulated herein.

## V. Services

V.1 **Maintenance Duties.** Subject to the level of Maintenance and Support as purchased by the Customer from Denodo and the term of Maintenance and Support, and provided Customer is current in the payment of all Partner Fees, Denodo shall provide Maintenance and Support as specified in this Section V and in accordance with Denodo's then-current support policies located on the Support Site which Customer hereby accepts and confirms as integral part of this EULA; the current version is attached to the Order for informational purposes only.

(a) **Maintenance and Support Services.** Maintenance and Support means that Denodo will provide: (a) Updates and Upgrades (if applicable at the level of purchased Maintenance and Support), and Documentation as determined by Denodo as appropriate; and (b) telephone and email assistance with respect to the Software, including (i) clarification of functions and features of the Software; (ii) clarification of Documentation pertaining to the Software; (iii) guidance in the operation of the Software; and (iv) error verification, analysis and correction. Denodo's standard hours of service are set forth in the Support Site.

(b) **Eligibility of Software.** Maintenance and Support will not include services requested as a result of, or with respect to, the following, and any services requested as a

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result thereof will be billed to Customer at Denodo's then-current rates, if after assessment, Denodo agrees to provide the Services:

- i accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure of electric power, air conditioning or humidity control; failure of rotation media not furnished by Denodo; changed hardware or software environment; changed legal or governmental requirements; **contamination with malware and computer viruses**; operation of the Software with other media not meeting or not maintained in accordance with the manufacturer's specifications; or causes other than ordinary use;
- ii improper installation by Customer or use of the Software that deviates from any operating procedures or technical environment established by Denodo in the applicable Documentation;
- iii modification, alteration or addition or attempted modification, alteration or addition of the Software undertaken by persons other than Denodo or Denodo's authorized representatives; or
- iv software or technology of any party other than Denodo.

(c) Responsibilities of Customer. Denodo's Maintenance and Support obligations under this EULA are subject to the following Customer responsibilities:

- i at Denodo's reasonable request and in response to a request for service from Customer, Customer shall provide Denodo with access to Customer's personnel and equipment/IT systems during normal

business hours under Customer supervision.

- ii Customer shall document and promptly report all errors or malfunctions of the Software to Denodo in sufficient detail and in English. Customer shall take all steps necessary to carry out procedures and instructions for the rectification of errors or malfunctions within a reasonable time after such procedures have been received from Denodo.
- iii Customer shall maintain a current backup copy of all its programs and data prior and during installation and use of the Software.
- iv Customer shall properly train its personnel in the use and application of the Software and the equipment on which it is used.
- v Customer may install any and all Updates and Upgrades provided by Denodo at its discretion, provided, however, that Denodo shall have no obligation to provide support under this EULA in the event that Customer's service request can be corrected by the Customer installing the Updates and/or Upgrades to the Software, or if Customer's installed Software falls outside the General Support period (or Extended Support, if applicable) outlined in Denodo's support policies available on the Support Site.

V.2 **Training Services.** In the event that any Training Services are purchased under the applicable Order, subject to the payment of the applicable fees, Denodo shall provide the training described in the Order. For clarity, Denodo shall owe performance of Training Services only, and shall not be held liable or be responsible for actual success of any Training.

V.3 **Professional Services.** In the event that any Professional Services are purchased under the Order, subject to the payment of the applicable fees, Denodo shall provide the Professional Services described in the Order or accompanying Statement of Work; for clarity, Denodo shall owe the Services to be performed only but not be held liable or responsible for achieving any (expressly stated or intended) success through such Services.

## VI. Limited Warranty and Limitation of Liability

VI.1 **Performance.** Denodo warrants that the Software will perform in substantial accordance with the Documentation for a period of thirty (30) days after the Effective Date. If during this time period the Software does not perform as warranted, Denodo shall, within a reasonable period of time, at its option, correct the Software or, replace such Software free of charge. The foregoing are Customer's sole and exclusive remedies for breach of warranty to the extent permitted by the applicable law. The warranty set forth above is made to and for the benefit of Customer only. The warranty will apply only if:

- (a) the Software has been properly installed and used at all times in accordance with the applicable license terms set out in the Order, this EULA, the Documentation and any other instructions for use communicated by Denodo to the Customer; and
- (b) no modification, alteration or addition has been made to the Software by persons other than Denodo or Denodo's authorized representative.

VI.2 **Provision of Services.** Where Denodo provides Services to the Customer, Denodo warrants to the Customer that the Services shall be provided

with reasonable skill and care and by means of appropriately qualified and skilled personnel.

VI.3 **Disclaimer.** No conditions, warranties or other terms apply to the Software or Documentation or any Services supplied under this EULA except to the extent that they are expressly set out in this EULA. Subject to clauses VI.1 and VI.2, no implied conditions, warranties or other terms apply (including any implied terms as to satisfactory quality, fitness for purpose or conformance with description).

### VI.4 Limitation of Liability.

(a) Denodo's liability:

- i. For death or personal injury caused by Denodo's negligence or the negligence of Denodo's employees or agents;
- ii. For fraud or fraudulent misrepresentation;
- iii. For property loss caused by Denodo's gross negligence or the gross negligence of Denodo's employees or agents.
- iv. under any express indemnities contained in this EULA;

is not excluded or limited by this EULA, even if any other term of this EULA would otherwise suggest that this might be the case. Except for the above, any use of the Software shall be at the sole risk and responsibility of the Customer.

(b) Subject to clause VI.4(a) above, Denodo shall not be liable under or in relation to this EULA or its subject matter (whether such liability arises due to negligence, breach of contract, misrepresentation or for any other reason) for any:

- i. Loss of profits;

- ii. Loss of anticipated savings or potential business deals;
  - iii. Loss of or damage to reputation;
  - iv. Loss or liabilities under or in relation to any other contract;
  - v. Indirect, special or consequential loss or damage;
  - vi. Loss or breach or corruption of any data; whether or not such loss was foreseeable; and for the purposes of this clause the term "loss" includes a partial loss or reduction as well as a complete or total loss.
- (c) Except to the extent that such limitation is not permitted under applicable law, subject to clauses VI.4(a) and VI.4(b) Denodo's total liability arising from or in connection with this EULA and in relation to anything which Denodo may have done or not done in connection with the EULA (and whether liability arises because of breach of contract, negligence or for any other reason) shall be limited to an amount equal to 100% of the total Partner Fees paid or payable in the twelve (12) months preceding the claim.
- (d) Denodo will not be liable under this EULA for breach of any of its terms to the extent that the breach concerned arises from:
- i. Use of the Software other than in accordance with normal operating procedures as described in the Documentation or as communicated by Denodo to the Customer;
  - ii. Any alteration or modification made to the Software by anyone other than Denodo or someone authorized by Denodo;
  - iii. Any use in breach of clause III.2;
  - iv. Any problem with the computer on which the Software is installed, any equipment connected to that computer or any of other Software which is installed on that computer;
  - v. Any other hardware or software being used with or in relation to any Software, unless this use has been expressly approved by Denodo. The provisions of this Section VI allocate risks under this EULA between Customer and Denodo. Denodo's pricing of the Software and Documentation reflects this allocation of risks and limitation of liability.
- (e) **Contributory cause.** The liability of a party for any loss suffered or incurred by the other party under this EULA (including under any indemnity) will be reduced proportionately to the extent that any wrongful (including negligent) act or omission of the other party or its personnel or commissioned third party directly caused or contributed to the loss.
- (f) A party that has suffered or is likely to suffer losses as a result of any event giving rise to liability of the other Party under this EULA (including under any indemnity), must take all reasonable steps to mitigate the losses. If the party suffering or likely to suffer losses does not do so, then the other party's liability will be reduced accordingly.
- VI.5 Customer Warranty.** To the extent the Customer is a business entity, Customer represents and warrants that
- (a) it is a corporation duly incorporated and validly existing and in good standing under the respective Laws applicable to it;
  - (b) it has all necessary corporate power and authority and has exercised it to validly enter into this EULA, to perform its obligations hereunder;

- (c) this EULA constitute the legal, valid and binding obligations of it, enforceable against it in accordance with its terms;
- (d) execution and performance of this EULA are not in violation of the Customer's respectively applicable legal and contractual duties and obligations; and
- (e) Customer will comply with all laws that are related in any way to the use of the Software, including but not limited to data protection and cyber security.

## VII. Indemnification for Infringement

VII.1 **Indemnity.** Denodo shall, at its expense, defend or settle any claim, action or allegation brought against Customer that the Software infringes any intellectual property rights of any third party and shall pay any final judgments awarded or settlements entered into; provided that Customer gives prompt written notice to Denodo of any such claim, action or allegation of infringement no longer than five (5) working days when Customer's knows or should have known of such claim, action or allegation, and further provided Customer gives Denodo the authority to proceed as contemplated herein. Denodo will have the exclusive right to defend any such claim, action or allegation and make settlements thereof at its own discretion, and Customer may not settle or compromise such claim, action or allegation, except with prior written consent of Denodo. Customer shall give such assistance and information as Denodo may reasonably require to settle or oppose such claims.

VII.2 **Options.** In the event any such infringement, claim, action or allegation is brought or threatened, Denodo may, at its sole option and expense:

- (a) procure for Customer the right to continue use of the Software or infringing part thereof; or
- (b) modify or amend the Software or infringing part thereof, or replace the Software or infringing part thereof with other software having substantially the same or better capabilities;

or, if neither of the foregoing is commercially practicable, terminate this EULA and repay to Customer a portion, if any, of the License Fee equal to the amount paid by Customer less a pro rata amount of the applicable License Fee based on the number of months or portion thereof that Customer has had productive use of the Software against the applicable License Term. Denodo and Customer will then be released from any further obligation to the other under this EULA, except for the obligations of indemnification provided for above and such other obligations that survive termination.

VII.3 **Exclusions.** The foregoing obligations will not apply to the extent the infringement arises as a result of modifications to the Software made by any party other than Denodo or an authorized representative of Denodo, or any use of Software in breach of clause III.2.

VII.4 **Indemnity by Customers.** Customer shall indemnify Denodo and its Affiliates and each of their respective officers, employees and agents against any losses (including reasonable legal costs and attorney fees) relating to or arising out of breach by Customer of this EULA, including:

- (a) Customer's failure to comply with any applicable Denodo's privacy or security policy, applicable privacy and data protection laws;

- (b) Any unauthorized use or Customer customization of the Software and its components, modules etc.;
- (c) Customer's breach of any provisions within this EULA or Order which expressly entitles Denodo to indemnity.

VII.5 **Limitation.** THIS ARTICLE VII STATES THE ENTIRE LIABILITY OF DENODO WITH RESPECT TO INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT.

## VIII. Confidential Information

VIII.1 **Non-Use and Non-Disclosure.** Each party agrees not to use any Confidential Information of the other party for any purpose except to exercise its rights and perform its obligations under this EULA. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party's employees, except to those employees of the receiving party with a need to know under this EULA. Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees who have access to Confidential Information of the other party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees. For the Customer, this also applies to Users which are not Customer's own employees. Notwithstanding the foregoing, a receiving party may disclose such Confidential Information to the extent it is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party

prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure. Confidential Information of Denodo will include without limitation the Documentation and Software, including any Updates and Upgrades.

VIII.2 **Customer Data.** Customer shall own any data or information created by Customer or that Customer provides ("Customer Data"). Customer will be solely responsible for the accuracy, content, lawfulness and use of Customer Data, including the means by which Customer Data is procured, stored, used and transferred by Customer. Customer Data shall be deemed Customer's Confidential Information.

VIII.3 **Copies.** Save as may be permitted by this EULA, neither party shall make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

VIII.4 **Return and Disposal of Materials.** Upon the termination of this EULA, each party shall deliver to the other party all of such other party's Confidential Information, and any copies thereof, that such party may have in its possession or control; for any copies of Confidential Information in electronic form the receiving party shall destroy and delete such copies completely and permanently; the receiving party shall certify the foresaid in writing by a duly authorized officer of such party.

VIII.5 **Filing for IP rights.** Customer shall not file or register, or aid and abet any Affiliate, User or

third party to file for or register, any intellectual property rights anywhere in the world containing, relying on or relating to a part of the entire Software and trademarks of Denodo, and shall not claim ownership thereof. Any breach of this clause shall be deemed a material breach of this EULA, and shall entitle Denodo to indemnification and to request at its sole discretion assignment or a license free of charge, or cancellation and withdrawal of related rights, or any other action to the same effect as feasible under applicable law, by Customer at Customer's cost. This clause shall survive termination or expiry of this EULA.

## IX. Term and Termination

**IX.1 Term.** This EULA will remain in force until terminated as provided herein. If, at any time, there are no outstanding Orders and/or Statements of Work then in effect, then either party may terminate this EULA on ninety (90) days written notice to the other party. The terms of each Order and Statement of Work will be as specified therein.

**IX.2 Termination by Customer.** This EULA, any Order or any Statement of Work may be terminated by Customer upon ninety (90) days' prior written notice to Denodo, with or without cause, provided that no such termination will entitle Customer to a refund of any fees and all amounts payable under the Agreement shall become due and immediately payable.

**IX.3 Termination Events.** Denodo may, by written notice to Customer, terminate this EULA if any of the following events occur:

- (a) Customer fails to pay any amount due under any Order; or
- (b) Customer is in material breach of any term, condition or provision of this EULA, which

breach, if capable of being cured, is not cured within thirty (30) days after Denodo gives Customer written notice of such breach; or

- (c) Customer breaches of any provisions within this EULA or Order which expressly entitles Denodo to terminate this EULA;
- (d) Customer (i) terminates or suspends its business; (ii) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority; or (iii) becomes subject to any bankruptcy or insolvency proceeding under applicable law; (iv) Customer or its top management has been categorized as an unreliable entity/person under the Chinese social credit ranking system; or
- (e) Denodo elects to refund Customer's fees in accordance with Section VII.2(b).

If any of the above termination events occurs, termination will become effective immediately or on the date set forth in the written notice of termination.

### IX.4 Effect of Termination.

- (a) All licenses granted hereunder shall terminate and cease with immediate effect.
- (b) No later than thirty (30) days after the date of termination or discontinuance of this EULA for any reason whatsoever, Customer shall return the Software, all Documentation relating thereto, all copies, in whole or in part, and any other Confidential Information in its possession that is in tangible form and shall erase it completely from all IT and storage systems. Customer shall furnish

Denodo with a certificate signed by an executive officer of Customer verifying that the same has been done.

- (c) The Customer must pay to Denodo any amounts properly due to Denodo under this EULA (but not paid).
- (d) Any failure by Customer to fully implement his obligations as stipulated under this clause shall, without prejudice to any further claim Denodo may have under this EULA or the applicable law, give Denodo a right to claim liquidated damages in the amount of RMB 500,000 for each breach, payable immediately upon request; late payment shall carry 8% interest. In the event of a continuing breach, the breach shall count as new additional breach with the beginning of each month in which the breach continues.

**IX.5 Survival.** If any Termination Event occurs, termination will become effective immediately or on the date set forth in the written notices of termination. In addition to those clauses which explicitly stipulate survival, the following section will survive any termination or expiration of this EULA: Sections I, IV, VII.1, VIII (for five (5) years following the effective date of such expiration or termination), IX.4 and IX.5 and X.

## X. Miscellaneous

**X.1 Non-assignment/Binding Agreement.** Neither this EULA nor any rights under this EULA may be assigned or otherwise transferred by Customer, in whole or in part, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of Denodo, which consent will not be unreasonably withheld. Subject to the foregoing, this EULA will be binding upon and will

inure to the benefit of the parties and their respective successors and assigns.

**X.2 No general terms and conditions.** The parties agree that no general terms and conditions of the Parties shall apply to this EULA. Customer confirms that the EULA and any related Order(s) have been negotiated and do not represent general terms and conditions.

**X.3 Notices.** Any notice required or permitted under the terms of this EULA or required by law must be in writing and must be (a) delivered in person, (b) sent by first class registered mail, or air mail, as appropriate, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address set forth in the Order. Either party may change its address for notice by providing notice to the other party in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, 3 business days after deposit in the mail as set forth above, or one day after delivery to an overnight air courier service.

**X.4 No Warranties.** No employee, agent, representative or Affiliate of Denodo has authority to bind Denodo to any oral representations or warranty concerning the Software. Any written representation or warranty not expressly contained in this EULA will not be enforceable.

**X.5 Force Majeure.** Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this EULA if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquake, fire and explosions,

pandemics, virus outbreaks but the inability to meet financial obligations is expressly excluded.

X.6 **Waiver.** Any waiver of the provisions of this EULA or of a party's rights or remedies under this EULA must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this EULA or its rights or remedies at any time, will not be construed and will not be deemed to be a waiver of such party's rights under this EULA and will not in any way affect the validity of the whole or any part of this EULA or prejudice such party's right to take subsequent action. No exercise or enforcement by either party of any right or remedy under this EULA will preclude the enforcement by such party of any other right or remedy under this EULA or that such party is entitled by law to enforce.

X.7 **Severability.** If any term, condition, or provision in this EULA is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this EULA. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

X.8 **Integration and Entire Agreement.**

(a) This EULA (including any Order and Statement of Work) contains the entire EULA of the parties with respect to the subject matter of this EULA and supersedes and extinguishes all previous communications, drafts, arrangements, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter.

(b) Each party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this EULA. Each party agrees that its only liability in respect of those representations and warranties that are set out in this EULA (whether made innocently or negligently) shall be for breach of contract.

(c) In the event of a conflict between an Order, a Statement of Work and this EULA, the terms of a mutually agreed upon and executed Order shall supersede any inconsistent terms set forth in any Statement of Work and this EULA.

(d) This EULA may not be amended, except in writing signed by both parties.

X.9 **Purchase Orders.** No terms, provisions or conditions of any purchase order, acknowledgement or other business form that Customer may unilaterally use in connection with the acquisition or licensing of the Software will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this EULA, regardless of any failure of Denodo to object to such terms, provisions or conditions.

X.10 **Data Protection.**

(a) Each party shall comply at all times with its obligations under Applicable Data Protection Laws; and

(b) The Customer is responsible for obtaining all relevant consents from, and providing all relevant notices to, individuals as required to ensure that the parties' dealings with Customer Data under this EULA comply with Applicable Data Protection Laws; Customer shall at its sole responsibility ensure –

including implementing necessary contractual arrangement - that Users comply with relevant data protection and privacy law; and

- (c) If there is unlawful content in Customer Data, Denodo may suspend Services or remove the unlawful content. Customer shall hold Denodo harmless and indemnify Denodo in case of any claims threatened or raised against Denodo in accordance with Article VII.4 hereof, and such obligation shall survive expiration or termination of this EULA.
- (d) Each party acknowledges that with regard to processing personal data subject to the Applicable Data Protection Laws, Customer is a controller and Denodo is a processor and each party shall comply with its obligations set out in that certain Data Processing Agreement available at <https://www.denodo.com/en/dpa> and related Chinese data protection laws and regulations, as applicable.
- X.11 **Export.** The Software, Services and Documentation are subject to U.S. export control laws and may be subject to import, export or re-export regulation of other countries including China. Customer may not import, export or re-export the Software to any country, jurisdiction or person: (a) to which the import, export, re-export or release of the Software is prohibited by applicable law, or (b) without first completing all required undertakings (including obtaining any necessary import or export license or other governmental approval).
- X.12 **Publicity.** Customer acknowledges that Denodo may desire to use its name in press releases, product brochures and financial reports indicating that Customer is a customer of Denodo, and Customer agrees that Denodo may use its name in such a manner, subject to Customer's consent, which consent will not be unreasonably withheld.
- X.13 **Third Party Beneficiary.** This EULA is for the benefit of the parties and their successors and permitted assigns, and does not confer any rights or benefits on any third party, including any employee of a party, any client of a party, or any employee of a client of a party. Notwithstanding the above, the parties acknowledge that all rights and benefits afforded to Denodo under this EULA apply equally to its Affiliates and its licensors, and each such third party is an intended third-party beneficiary of this EULA.
- X.14 **Counterparts.** This EULA may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement.
- X.15 **Governing Law.** This EULA and any dispute arising out of or in connection with the subject matter of this EULA are governed by laws of People's Republic of China.
- X.16 Any dispute in relation to this EULA, a related Order of Statement of Work shall be submitted to the exclusive jurisdiction of the courts in Beijing save that either party may apply to any court for an injunction or other relief to protect its intellectual property rights.
- X.17 **The rule about "contra proferentem".** This EULA is not to be interpreted against the interests of a party merely because that party proposed this EULA or some provision in it or because that party relies on a provision of this EULA to protect itself.
- X.18 **No Agency.** Nothing in this EULA is intended to constitute a fiduciary relationship or an agency,

partnership or trust between the parties. No party has authority to bind any other party.

X.19 **Headings.** The clause headings appearing in this EULA are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such clause or in any way affect such clause.

X.20 **Variation.** Any amendments, changes and supplements to this EULA are of no force and effect unless reduced to writing. This also applies to any changes regarding this written form requirement.

X.21 **Language.** This EULA and the related Order was construed in English and may be written in English and Chinese. In such case, if there is any conflict between the Chinese and English versions, the English version shall prevail.

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

**DENODO Software (Beijing) Co. Ltd.**

**CUSTOMER**

Authorized  
Signature:/Chop \_\_\_\_\_

Authorized  
Signature/Chop: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_