



## SNOWFLAKE TERMS OF SERVICE

**VERSION DATE:** November 19, 2018

BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT OR ACCESSING OR USING ANY SERVICE, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU MAY NOT USE ANY SERVICE. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU.

IF YOU ARE USING ANY SERVICE AS AN EMPLOYEE, CONTRACTOR, OR AGENT OF A CORPORATION, PARTNERSHIP OR SIMILAR ENTITY, THEN YOU MUST BE AUTHORIZED TO SIGN FOR AND BIND SUCH ENTITY IN ORDER TO ACCEPT THE TERMS OF THIS AGREEMENT, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO DO SO. THE RIGHTS GRANTED UNDER THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON ACCEPTANCE BY SUCH AUTHORIZED PERSONNEL.

### AGREEMENT

This Snowflake Terms of Service ("**Agreement**") is entered into by and between Snowflake Computing, Inc. ("**Snowflake**") and the entity or person placing an order for or accessing any Service ("**Customer**" or "**you**"). This Agreement consists of the terms and conditions set forth below and any attachments, addenda or exhibits referenced in the Agreement, and any Order Forms and SOWs (as defined below) that reference this Agreement.

The "**Effective Date**" of this Agreement is the date which is the earlier of (a) Customer's initial access to any Service (as defined below) through any online provisioning, registration or order process or (b) the effective date of the first Order Form referencing this Agreement. This Agreement will govern Customer's initial purchase on the Effective Date as well as any future purchases made by Customer that reference this Agreement.

**Purchase from Reseller:** If Customer purchases any Service from an authorized reseller of Snowflake ("**Reseller**"), Customer's use of the Service will be governed by this Agreement, except that Customer will pay Reseller for the Service.

**Modifications to this Agreement:** From time to time, Snowflake may modify this Agreement. Unless otherwise specified by Snowflake, changes become effective for Customer upon renewal of the then-current Subscription Term (as defined below) or entry into a new Order Form after the updated version of this Agreement goes into effect. Snowflake will use reasonable efforts to notify Customer of the changes through communications via Customer's Account (as defined below), email or other means. Customer may be required to click to accept or otherwise agree to the modified Agreement before renewing a Subscription Term or entering into a new Order Form, and in any event continued use of any Service after the updated version of this Agreement goes into effect will constitute Customer's acceptance of such updated version.

### GENERAL DESCRIPTION

This Agreement permits Customer to access and use the Service, a cloud-native elastic data warehouse service that is designed to allow customers to store, combine and process structured and semi-structured business data from multiple sources pursuant to the terms expressly set forth in this Agreement. Customer Data uploaded to the Service is stored in a central repository in Customer's Account and Customer may create virtual warehouses as needed to combine and process data from its repository. *For clarity, this General Description is for informational purposes only and does not modify the Agreement.*

## 1. USE OF SERVICE

**1.1. Service Provision and Access; Client Software.** Snowflake will make the Service available to Customer for the Subscription Term solely for use by Customer and its Users in accordance with the terms and conditions of this Agreement, the Documentation, and the Order Form. Customer may permit its Contractors and Affiliates to serve as Users provided that any use of the Service by each such Contractor or Affiliate is solely for the benefit of Customer or such Affiliate. Customer shall be responsible for each User's compliance with this Agreement. To the extent use of a Service requires Customer to install Client Software, Snowflake grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive license during the Subscription Term to use the object code form of the Client Software internally in connection with Customer's and its Affiliates use of the Service, subject to the terms and conditions of this Agreement and the Documentation.

**1.2. Affiliates.** Customer Affiliates may purchase services from Snowflake directly by entering into an Order Form with Snowflake

referencing this Agreement. By such Affiliate entering into an Order Form hereunder, the Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto and for purposes of such Order Form, shall also be deemed "Customer" hereunder. Unless stated otherwise on an Order Form, Customer and its Affiliates who sign Order Forms under this Agreement shall be deemed to be jointly liable for a breach of this Agreement.

**1.3. Sample Data; Third Party Applications.** Snowflake may make Sample Data available for Customer. Customer acknowledges that Sample Data is example data only, which may not be complete, current, or accurate. Customer will not (and will not permit any third party to) copy or export any Sample Data and agrees that Snowflake may delete or require Customer to cease using Sample Data at any time upon advance notice. Snowflake may also provide URL links within the Service to third party websites facilitating Customer's procurement of Third Party Applications, at Customer's sole discretion. Notwithstanding the foregoing, any procurement or use of Third Party Applications are solely between



Customer and the applicable third party.

#### 1.4. Customer-Controlled Data Sharing Functionality.

**(a) Generally.** The Service includes the capability for Customer, at its option and in its sole discretion, to share Customer Data with other Customer-designated Snowflake customers and/or Read Only Users (as defined below), and to access or use data from other Snowflake customers, as further described in the Documentation. The Snowflake customer sharing its data is a “Provider,” and the Snowflake customer accessing or using shared data is a “Consumer.”

**(b) When Customer is Provider.** Provider may, at its option and in its sole discretion, grant Consumer access to designated sets of Provider’s Customer Data as further described in the Documentation. Provider acknowledges and agrees that: (a) Consumers will have the access designated by Provider (including to view, download, and query the Customer Data) and that it is Provider’s sole responsibility to evaluate any risks related to its sharing of Customer Data with Consumers; and (b) Snowflake has no control over, and will have no liability for, any acts or omissions of any Consumer with respect to Provider’s sharing of Customer Data. At all times Provider remains responsible for its Customer Data as set forth in the Agreement.

**(c) When Customer is Consumer.** By accessing or using Provider’s data, Consumer acknowledges that (a) Snowflake has no liability for such data or Consumer’s use of such data, (b) Snowflake may collect information about Consumer’s use of and access to the Service and to Provider’s data (including identifying Consumer in connection with such information) and share it with Provider.

**(d) Reader Accounts.** When Customer is Provider, Customer may, at its option and in its sole discretion (using a mechanism provided by Snowflake) authorize third party entities that are not currently Snowflake customers (“**Read Only Consumers**”) to access a read-only account on the Snowflake Service as further described in the Documentation (“**Reader Accounts**”) solely to consume Customer Data shared by Customer; provided that: (a) Customer shall be responsible for paying for any usage of the Reader Accounts; (b) Users authorized to access the Reader Account (“**Read Only Users**”) shall be prohibited from uploading any data into the Reader Accounts; (c) such Read Only Users must submit support requests only as set forth in the Snowflake Support Policy; (d) Customer represents that it has the right to share with Snowflake any personal information about Read Only Users that Customer provides to Snowflake; (e) Customer shall be responsible for any acts or omissions on the part of Read Only Users in their use of the Reader Accounts as if they were acts or omissions of Customer; and (f) the following sentence is added to Section 11.2 of the Agreement: “Customer will defend, indemnify, and hold harmless Snowflake from and against any and all claims, costs, damages, losses, liabilities, and expenses (including reasonable attorneys’ fees) brought by any Read Only Consumers or Read Only Users or arising from or relating to any acts or omissions by Read Only Consumers or Read Only Users in their use of the Reader Accounts.”

**1.5. General Restrictions.** Customer will not (and will not permit any third party to): (a) sell, rent, lease, license, distribute, provide access to, sublicense, or otherwise make available any Service to a third party (except as expressly set forth in Section 1.1 with respect to Contractors and Affiliates and 1.4(d) (Reader Accounts)) or in a service bureau or outsourcing offering; (b) use any Service to provide, or incorporate any Service into, any general purpose data warehousing service for the benefit of a third party; (c) reverse

engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to any Service, except to the extent expressly permitted by applicable law (and then only upon advance written notice to Snowflake); (d) remove or obscure any proprietary or other notices contained in any Service; or (e) use any services in violation of the Acceptable Use Policy, which is incorporated herein by this reference.

## 2. CUSTOMER DATA

**2.1. Rights in Customer Data.** As between the parties, Customer or its licensors retain all right, title and interest (including any and all intellectual property rights) in and to the Customer Data and any modifications made thereto in the course of the operation of the Service as provided to Snowflake. Subject to the terms of this Agreement, Customer hereby grants to Snowflake a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, modify, create derivative works of, and display the Customer Data solely to the extent necessary to provide the services to Customer, or to prevent or address service or technical problems under this Agreement, or as may be required by law.

**2.2. Uploads of Customer Data.** Customer will be responsible for uploading all Customer Data to the Service and will provide such Customer Data in a format consistent with the requirements set forth in the Documentation. Errors in loading Customer Data into the applicable Service due to defective media, erroneous data or failure to meet such requirements may cause Customer Data to be rejected by the Service and Snowflake will have no responsibility for any related impact on Customer’s ability to access or use the Service.

### 2.3. Customer Obligations.

**(a) In General.** Customer will ensure that its use of each Service and all Customer Data is at all times compliant with this Agreement, Customer’s privacy policies, and all applicable local, state, federal and international laws, regulations and conventions, including, without limitation, those related to data privacy and data transfer, international communications, and the exportation of technical or personal data. Customer is solely responsible for the accuracy, content and legality of all Customer Data. Customer represents and warrants that Customer has sufficient rights in the Customer Data to grant the rights granted to Snowflake in Section 2.1 and that the Customer Data does not infringe or violate the intellectual property, publicity, privacy or other rights of any third party.

**(b) HIPAA Data.** Customer agrees not to upload to any Service any HIPAA Data unless Customer has entered into BAA with Snowflake. Unless a BAA is in place, Snowflake will have no liability under this Agreement for HIPAA Data, notwithstanding anything to the contrary in this Agreement or in HIPAA or any similar federal or state laws, rules or regulations. If Customer is permitted to submit HIPAA Data to a Service, then Customer may submit HIPAA Data to Snowflake and/or the Service only by uploading it as Customer Data. Upon mutual execution of the BAA, the BAA is incorporated by reference into this Agreement and is subject to its terms.

**(c) User ID and Password Protection.** Customer will require that all permitted Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. Snowflake will have no liability for actions taken using Customer’s user IDs and passwords, including any unauthorized use or access caused by misuse or misappropriation of such user IDs and passwords. Customer will be responsible for restricting access by any User who is no longer authorized to access the Service.

**2.4. Data Privacy.** The parties shall comply with the DPA, which is incorporated herein by this reference and except as expressly



stated therein, shall not be modified except by mutual written agreement of the parties. By signing this Agreement, each party is deemed to have signed the DPA, including the Model Clauses as "Data exporter" in the case of Customer, and as "Data importer" in the case of Snowflake.

**3. SECURITY.** The parties shall comply with the Security Policy, which is incorporated herein by this reference.

#### **4. INTELLECTUAL PROPERTY**

**4.1. Snowflake Technology.** Customer agrees that Snowflake or its suppliers retain all right, title and interest (including all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Service, all Documentation and Client Software, any Technical Services deliverables, and any and all related and underlying technology and documentation; and any derivative works, modifications, or improvements of any of the foregoing, including any Feedback that may be incorporated (collectively, "**Snowflake Technology**"). Except for the express limited rights set forth in this Agreement, no right, title or interest in any Snowflake Technology is granted to Customer. Further, Customer acknowledges that the Service is offered as an online, hosted solution, and that Customer has no right to obtain a copy of the underlying computer code for any Service, except (if applicable) for the Client Software in object code format. Notwithstanding anything to the contrary herein, Snowflake may freely use and incorporate into Snowflake's products and services any suggestions, enhancement requests, recommendations, corrections, or other feedback provided by Customer or by any users of the Services relating to Snowflake's products or services ("**Feedback**").

**4.2. Service Data.** Notwithstanding anything to the contrary in this Agreement, Snowflake has the right to collect and use Service Data to develop, improve, support, and operate its products and services during and after the term of this Agreement. This Section does not give Snowflake the right to identify Customer as the source of any Service Data without written permission from Customer.

**4.3. Marketing.** Snowflake may use and display Customer's name, logo, trademarks, and service marks on Snowflake's website and in Snowflake's marketing materials in connection with identifying Customer as a customer of Snowflake. Upon Customer's written request, Snowflake will promptly remove any such marks from Snowflake's website and, to the extent commercially feasible, Snowflake's marketing materials. If Snowflake requests, Customer agrees to participate in a case study, press release and/or cooperate with Snowflake in speaking to the media, and to speak at a future Snowflake event.

**5. CONFIDENTIALITY.** Each party (as "**Receiving Party**") will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the other party (the "**Disclosing Party**") for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. If Receiving Party is required by law or court order to disclose Confidential Information, then Receiving Party shall, to the extent legally permitted, provide Disclosing Party with advance written notification and cooperate in any effort to obtain confidential treatment of the Confidential Information. The Receiving Party

acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party, the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

#### **6. FEES AND PAYMENT; TAXES; PAYMENT DISPUTES**

**6.1. Fees and Payment.** All Fees and payment terms are as set forth in the applicable Order Form. Except as expressly set forth in this Agreement, all payment obligations are non-cancelable and Fees are non-refundable.

**6.2. Taxes.** Fees do not include Taxes. Customer is responsible for paying all Taxes associated with its purchases hereunder other than taxes based on income, property, or employees of Snowflake. If Snowflake has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section, Snowflake will invoice Customer and Customer will pay that amount unless Customer provides Snowflake with a valid tax exemption certificate authorized by the appropriate taxing authority.

**6.3. Payment Disputes.** Snowflake will not exercise its rights under Section 7.2 (Termination for Cause) or Section 7.5(a) (Suspension of Service) with respect to non-payment by Customer if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute. If the parties are unable to resolve such a dispute within thirty (30) days, each party shall have the right to seek any remedies it may have under this Agreement, at law or in equity, irrespective of any terms that would limit remedies on account of a dispute. For clarity, any undisputed amounts must be paid in full.

#### **7. TERM AND TERMINATION**

**7.1. Term.** This Agreement is effective as of the Effective Date and will remain in effect until terminated in accordance with its terms. If there is no SOW, Order Form or Retrieval Right currently in effect, either party may terminate this Agreement upon written notice to the other party. Each Order Form will terminate upon expiration of the applicable Subscription Term, unless expressly stated otherwise therein or in this Agreement.

**7.2. Termination for Cause.** Either party may terminate this Agreement (including all related Order Forms) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay Fees) within thirty (30) days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party and is not dismissed within 60 days. Except where an exclusive remedy is specified, the exercise of either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise. For any termination of this Agreement by Customer for cause in accordance with Section 7.2(a), Customer shall be entitled to a refund of any unused Fees Customer has pre-paid for the Service purchased hereunder.

**7.3. Effect of Termination; Customer Data Retrieval.** Upon written notice to Snowflake, Customer will have up to thirty (30) calendar days from termination or expiration of this Agreement to access the Service solely to the extent necessary to retrieve Customer Data ("**Retrieval Right**"). If Customer exercises its Retrieval Right, this Agreement and the applicable Order Form shall continue in full force and effect for the duration of the Retrieval Right. Snowflake shall have no further obligation to make Customer





Data available after termination of this Agreement and shall thereafter promptly delete Customer Data. After the Retrieval Right period, Customer will have no further access to Customer Data and shall cease use of and access to the Service (including any related Snowflake Technology) and delete all copies of Client Software, Documentation, any Service passwords or access codes, and any other Snowflake Confidential Information in its possession.

**7.4. Survival.** The following Sections will survive any expiration or termination of this Agreement: 1.5 (General Restrictions), 4 (Intellectual Property), 5 (Confidentiality), 6.1 (Fees and Payment), 6.2 (Taxes), 7 (Term and Termination), 8.2 (Warranty Disclaimer), 11 (Indemnification), 12 (Limitation of Remedies and Damages), 13 (General Terms), and 14 (Definitions).

**7.5. Suspension of Service.** In addition to any of its other rights or remedies (including, without limitation, any termination rights) set forth in this Agreement, Snowflake reserves the right to suspend provision of services; (a) if Customer is thirty (30) days or more overdue on a payment, (b) if Snowflake deems such suspension necessary as a result of Customer's breach of Sections 1.5 (General Restrictions) or 2.3 (Customer Obligations), (c) if Snowflake reasonably determines suspension is necessary to avoid material harm to Snowflake or its other customers, including if the Service is experiencing denial of service attacks, mail flooding, or other attacks or disruptions outside of Snowflake's control, or (d) as required by law or at the request of governmental entities.

## **8. WARRANTY**

**8.1. Service Warranty.** Snowflake warrants that each Service will operate in substantial conformity with the applicable Documentation. In the event of a breach of this warranty, Snowflake will use commercially reasonable efforts to correct the reported non-conformity, at no charge to Customer, or if Snowflake determines such remedy to be impracticable, either party may terminate the applicable Order Form and Customer will receive a refund of any unused Fees Customer has pre-paid for the Service purchased thereunder. The foregoing shall be Customer's sole and exclusive remedy for any breach of the warranty set forth in this Section. This warranty will not apply: (i) unless Customer makes a claim within thirty (30) days of the date on which Customer first noticed the non-conformity, or (ii) if the error was caused by misuse, unauthorized modifications, or third-party hardware, software, or services.

**8.2. Warranty Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, EACH SERVICE, THE CLIENT SOFTWARE, SAMPLE DATA, AND ALL TECHNICAL SERVICES ARE PROVIDED "AS IS" AND SNOWFLAKE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. SNOWFLAKE DOES NOT WARRANT THAT THE USE OF ANY SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, NOR DOES SNOWFLAKE WARRANT THAT IT WILL REVIEW THE CUSTOMER DATA FOR ACCURACY OR THAT IT WILL PRESERVE OR MAINTAIN THE CUSTOMER DATA WITHOUT LOSS. SNOWFLAKE SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES RELATED TO THIRD-PARTY HOSTING PROVIDERS WITH WHOM CUSTOMER SEPARATELY CONTRACTS. SNOWFLAKE DOES NOT MAKE ANY WARRANTIES AND SHALL HAVE NO OBLIGATIONS WITH RESPECT TO THIRD PARTY APPLICATIONS. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED

WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

**9. SUPPORT AND AVAILABILITY.** During a Subscription Term, Snowflake will provide Customer the level of support and service levels for the Service specified in the applicable Order Form, in accordance with the Support Policy, which is incorporated herein by this reference.

**10. TECHNICAL SERVICES.** Snowflake will provide the Technical Services purchased, if any. The scope of Technical Services will be as set forth in a SOW. Customer may use anything delivered as part of the Technical Services in support of authorized use of the Service and subject to the terms regarding Customer's rights to use the Service set forth in Section 1 (Use of Service) and the applicable SOW, but Snowflake will retain all right, title and interest in and to any such work product, code (including SQL queries) and deliverables and any derivative, enhancement or modification thereof created by or on behalf of Snowflake.

## **11. INDEMNIFICATION**

**11.1. Indemnification by Snowflake.** Snowflake will defend Customer from and against any claim by a third party alleging that any Service, when used as authorized under this Agreement, infringes a U.S. patent, copyright, or trademark and will indemnify and hold harmless Customer from and against any damages and costs awarded against Customer or agreed in settlement by Snowflake (including reasonable attorneys' fees) resulting from such claim. If Customer's use of the Service is (or in Snowflake's opinion is likely to be) enjoined, if required by settlement or if Snowflake determines such actions are reasonably necessary to avoid material liability, Snowflake may, in its sole discretion, either: (a) substitute substantially functionally similar products or services; (b) procure for Customer the right to continue using the Service; or if (a) and (b) are not commercially reasonable, (c) terminate this Agreement and refund to Customer the Fees paid by Customer for the Service that were prepaid but not used by Customer. The foregoing indemnification obligation of Snowflake will not apply to the extent the applicable claim is attributable to: (1) the modification of the Service by any party other than Snowflake or based on Customer's specifications or requirements; (2) the combination of the Service with products or processes licensed or procured from a party other than Snowflake; (3) any unauthorized use of the Service; or (4) any action arising as a result of Customer Data, or any deliverables or components not provided by Snowflake. THIS SECTION SETS FORTH SNOWFLAKE'S SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

**11.2. Indemnification by Customer.** Customer will defend Snowflake from and against any claim by a third party arising from or relating to any Customer Data or any product or service offered by Customer in connection with or related to the Service, and will indemnify and hold harmless Snowflake from and against any damages and costs awarded against Snowflake or agreed in settlement by Customer (including reasonable attorneys' fees) resulting from such claim.

**11.3. Indemnification Procedures.** In the event of a potential indemnity obligation under this Section 11, the indemnified party will: (i) promptly notify the indemnifying party in writing of the claim, (ii) allow the indemnifying party the right to control the investigation, defense and settlement (if applicable) of such claim at the indemnifying party's sole cost and expense, and (iii) upon request of the indemnifying party, provide all necessary cooperation at the



indemnifying party's expense. Failure by the indemnified party to notify the indemnifying party of a claim under this Section 11 shall not relieve the indemnifying party of its obligations under this Section 11, however the indemnifying party shall not be liable for any litigation expenses that the indemnified party incurred prior to the time when notice is given or for any damages and/or costs resulting from any material prejudice caused by the delay or failure to provide notice to the indemnifying party in accordance with this Section. The indemnifying party may not settle any claim in any matter that would require obligation on the part of the indemnified party (other than payment or ceasing to use infringing materials), or any admission of fault by the indemnified party, without the indemnified party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Further, any indemnification obligation under this Section 11 will not apply if the indemnified party settles or makes any admission with respect to a claim without the indemnifying party's prior written consent.

**12. LIMITATION OF REMEDIES AND DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT FOR "EXCLUDED CLAIMS", NEITHER PARTY NOR ITS AFFILIATES SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, INTERRUPTION OF BUSINESS, COSTS OF DELAY, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT FOR "EXCLUDED CLAIMS", AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EACH PARTY'S AND ITS AFFILIATES' ENTIRE LIABILITY TO THE OTHER PARTY OR ITS AFFILIATES (FOR DAMAGES OR LIABILITY OF ANY TYPE), SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID (OR WITH RESPECT TO CLAIMS FOR FEES DUE, PAYABLE) BY CUSTOMER TO SNOWFLAKE ATTRIBUTABLE TO THE PRIOR 12 MONTHS UNDER THE APPLICABLE ORDER FORM ("**GENERAL LIABILITY CAP**"). NOTWITHSTANDING THE FOREGOING, IN THE CASE OF "DATA PROTECTION CLAIMS" THE TOTAL RESPECTIVE AGGREGATE LIABILITY OF EACH PARTY UNDER THIS AGREEMENT SHALL NOT EXCEED THE GREATER OF THE "GENERAL LIABILITY CAP" AND ONE HUNDRED THOUSAND U.S. DOLLARS (\$100,000).

THE PARTIES AGREE THAT THE WAIVERS AND LIMITATIONS SPECIFIED IN THIS SECTION 12 WILL SURVIVE AND APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE AND WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

### **13. GENERAL TERMS**

**13.1. Assignment.** This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement without the advance written consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all of such party's assets or voting securities. Each party shall promptly provide notice of any such assignment. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section will be null and void.

**13.2. Severability; Interpretation.** If a court of competent jurisdiction holds any provision of this Agreement to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect. Section headings are inserted for convenience only and shall not affect the construction of the agreement.

**13.3. Dispute Resolution; Governing Law; Jurisdiction and Venue.** Each party agrees that before it seeks any form of legal relief (except for a provisional remedy as explicitly set forth below) it shall provide written notice to the other party of the specific issue(s) in dispute (and reference the relevant provisions of the contract between the parties which are allegedly being breached). Within thirty (30) days after such notice, knowledgeable executives of the parties shall hold at least one meeting (in person or by video- or tele-conference) for the purpose of attempting in good faith, to resolve the dispute. The parties agree to maintain the confidential nature of all disputes and disagreements between them, including, but not limited to, informal negotiations, mediation or arbitration, except as may be necessary to prepare for or conduct these dispute resolution procedures or unless otherwise required by law or judicial decision. The dispute resolution procedures in this Section shall not apply to claims subject to indemnification under Section 11 (Indemnification) or prior to a party seeking a provisional remedy related to claims of misappropriation or ownership of intellectual property, trade secrets or Confidential Information. This Agreement will be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. The jurisdiction and venue for actions related to the subject matter hereof will be the state and federal courts located in San Francisco, California and both parties hereby submit to the personal jurisdiction of such courts.

**13.4. Notice.** Any notice or communication required or permitted under this Agreement will be in writing to the parties at the addresses set forth in this Agreement or at such other address as may be given in writing by either party to the other in accordance with this Section and will be deemed to have been received by the addressee: (i) if given by hand, immediately upon receipt; (ii) if given by overnight courier service, the first business day following dispatch; (iii) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail; or (iv) if given by email, immediately upon receipt, but notices related to termination of this Agreement or any claims (including without limitation breach, warranty or indemnity) may not be given via email except as expressly permitted in this Agreement or in an Order Form. Email notifications to Snowflake shall be to [legalnotices@snowflake.com](mailto:legalnotices@snowflake.com).

**13.5. Amendments; Waivers.** No supplement, modification, or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement, except as expressly set forth herein. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. No terms or conditions stated in a Customer purchase order, vendor onboarding process or web portal, or any other Customer order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void, notwithstanding any language to the contrary therein, whether signed before or after this Agreement.

**13.6. Entire Agreement.** This Agreement is the complete and



exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. Snowflake may change and update any Service (in which case Snowflake may update the applicable Documentation accordingly), subject to the warranty in Section 8.1 (Service Warranty).

**13.7. Third Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.

**13.8. Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay Fees) if the delay or failure results from any cause beyond such party's reasonable control, including 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, acts or orders of government, acts of terrorism, or war.

**13.9. Independent Contractors.** The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

**13.10. Export Control.** Customer agrees to comply with all export and import laws and regulations of the United States and other applicable jurisdictions. Without limiting the foregoing, (i) Customer represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country, (ii) Customer will not (and will not permit any third parties to) access or use any Service in violation of any U.S. export embargo, prohibition or restriction, and (iii) Customer will not submit to any Service any information that is controlled under the U.S. International Traffic in Arms Regulations.

**13.11. Federal Government End Use Provisions.** Snowflake provides the Service, including all related software and, to the extent applicable the Snowflake Technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Service include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Snowflake to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

**13.12. Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement.

## 14. DEFINITIONS

**"Acceptable Use Policy"** means Snowflake's acceptable use policy, made available at <https://www.snowflake.com/legal/>.

**"Account"** means Customer's account in the applicable Service in which Customer stores and processes Customer Data.

**"Affiliate"** means an entity that, directly or indirectly, owns or controls, is owned or is controlled by, or is under common ownership or control with a party. As used herein, "control" means the power to direct the management or affairs of an entity and "ownership" means the beneficial ownership of more than fifty percent (50%) of the voting equity securities or other equivalent voting interests of an entity.

**"BAA"** means a business associate agreement governing the parties respective obligations with respect to any HIPAA Data uploaded by Customer to the Service in accordance with the terms of this Agreement.

**"Client Software"** is any desktop client software included in the applicable Service that is made available to Customer by Snowflake for installation on end user computers.

**"Confidential Information"** shall mean all information that is identified as confidential at the time of disclosure by the Disclosing Party or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. All Customer Data will be deemed Confidential Information of Customer without any marking or further designation. All Snowflake Technology and the terms and conditions of this Agreement will be deemed Confidential Information of Snowflake without any marking or further designation. Confidential Information shall not include information that the Receiving Party can demonstrate: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information.

**"Contractor"** means the independent contractors and consultants permitted by Customer to serve as Users of the Service.

**"Customer Data"** means any data or data files of any type that are uploaded by or on behalf of Customer to the Service for storage in a data repository.

**"Data Protection Claims"** means with respect to each party, any claims arising from the other party's breach of Section 2.3 (Customer Obligations), or breach of Sections 2.4 (Data Privacy), 5 (Confidentiality), or 3 (Security), where such breach results in the unauthorized disclosure of Customer Data.

**"Disclosing Party"** is defined in Section 5 (Confidential Information).

**"Documentation"** means Snowflake's technical documentation and usage guides for the applicable Service made available at <https://docs.snowflake.net> or through the Service.

**"DPA"** means the Customer Data Processing Addendum located at <https://www.snowflake.com/legal/> on the Effective Date of this Agreement.

**"Excluded Claims"** means (a) Customer's breach of Section 1.5 (General Restrictions); (b) a party's breach of its obligations in Section 5 (Confidential Information) (but excluding obligations and/or claims relating to Customer Data); and (c) either party's express obligations under Section 11 (Indemnification).

**"Feedback"** is defined in Section 4.1 (Snowflake Technology).

**"Fees"** means the fees payable by Customer for the applicable Service or Technical Services, as set forth in an Order Form.





“**HIPAA**” means the Health Insurance Portability and Accountability Act, as amended and supplemented.

“**HIPAA Data**” means any patient, medical or other protected health information regulated by HIPAA or any similar federal or state laws, rules or regulations.

“**Order Form**” means the Snowflake ordering document executed by both Customer and Snowflake which specifies the services being provided by Snowflake.

“**Reader Accounts**”, “**Read Only Consumers**”, and “**Read Only Users**” are respectively as defined in Section 1.4(d) (Reader Accounts).

“**Receiving Party**” is defined in Section 5 (Confidentiality).

“**Retrieval Right**” is defined in Section 7.3 (Effect of Termination; Customer Data Retrieval).

“**Sample Data**” means any data (including from third-party sources) provided or made available to Customer by Snowflake solely for Customer’s internal testing, evaluation, and other non-productive use of the Service during the Subscription Term.

“**Security Policy**” means the Snowflake Security Policy located at <https://www.snowflake.com/legal/>.

“**Service**” means a Snowflake software-as-a-service offering made generally available and ordered by Customer as set forth in an Order Form.

“**Service Data**” means query logs, and any data (other than Customer Data) relating to the operation, support and/or about Customer’s use of the Service.

“**Snowflake Technology**” is defined in Section 4.1 (Snowflake Technology).

“**SOW**” means a statement of work or Order Form (as applicable) referencing this Agreement and executed by both parties describing the work to be performed, Fees and any applicable milestones, dependencies and other technical specifications or related information for Technical Services ordered pursuant to Section 10 (Technical Services).

“**Subscription Term**” means the set term designated on an Order Form.

“**Support Policy**” means the Snowflake Support Policy located at [www.snowflake.com/legal](http://www.snowflake.com/legal) describing Snowflake’s current support policies and service level offerings.

“**Taxes**” means taxes, levies, duties or similar governmental assessments of any nature, including, for example, any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, or assessed by any jurisdiction.

“**Technical Services**” means the services related to the Service provided by Snowflake to Customer, as set forth in an SOW.

“**Third Party Applications**” means separate services or applications (and other consulting services related thereto), provided by a party other than Snowflake that can be used in connection with the Service.

“**User**” means the persons designated and granted access to the Service by Customer.