

GENERAL TERMS AND CONDITIONS FOR CDC CLOUD SERVICES ("GTC")
CDC 云服务一般条款和条件 (以下简称"GTC")

1. DEFINITIONS

定义

Capitalized terms used in this document are defined in the Glossary.

本文中以粗体显示的术语在术语表中进行了定义。

2. USAGE RIGHTS AND RESTRICTIONS

使用权利和限制

2.1 Grant of Rights.

权利的授予。

CDC grants to Customer a non-exclusive, non-transferable and world-wide right to use the Cloud Service (including its implementation and configuration), Cloud Materials and Documentation solely for Customer's and its Affiliates' internal business operations. Permitted uses and restrictions of the Cloud Service also apply to Cloud Materials and Documentation.

CDC 授予客户非独占的、不可转让的全球范围内的权利，允许其出于自身及其关联企业的内部业务运营之唯一目的使用云服务（包括云服务的实施和配置）、云材料和文档。云服务的许可使用和限制条款同样适用于云材料和文档。

2.2 Authorized Users.

授权用户。

Customer may permit Authorized Users to use the Cloud Service. Usage is limited to the Usage Metrics and volumes stated in the Order Form. Access credentials for the Cloud Service may not be used by more than one individual, but may be transferred from one individual to another if the original user is no longer permitted to use the Cloud Service. Customer is responsible for breaches of the Agreement caused by Authorized Users.

客户有权允许授权用户使用云服务。使用范围仅限于订购单中规定的使用指标和使用量。云服务的访问凭据仅限一位用户使用，但若原用户被禁止使用云服务，则将其访问凭据转让给他人。客户应对授权用户违反协议的行为承担责任。

2.3 Acceptable Use Policy.

可接受的使用政策。

With respect to the Cloud Service, Customer will not:

就云服务而言，客户不得：

- (a) disassemble, decompile, reverse-engineer, copy, translate or make derivative works,
执行反汇编、反编译、反向工程、拷贝、翻译或制作衍生作品，
- (b) transmit any content or data that is unlawful or infringes any intellectual property rights,
or
传输非法或侵犯任何知识产权的任何内容或数据，或
- (c) circumvent or endanger its operation or security.
规避或威胁其运营或安全。

2.4 Verification of Use.

验证使用情况。

Customer will monitor its own use of the Cloud Service and report any use in excess of the Usage Metrics and volume. CDC may monitor use to verify compliance with Usage Metrics, volume and the Agreement.

客户应监控自身使用云服务的情况，并报告任何超出使用指标和使用量的情形。CDC 也可监控客户的使用情况，验证其使用是否遵守使用指标、使用量和协议的规定。

2.5 Suspension of Cloud Service.

暂停云服务。

CDC may suspend or limit use of the Cloud Service if continued use may result in material harm to the Cloud Service or its users. CDC will promptly notify Customer of the suspension or limitation. CDC will limit the suspension or limitation in time and scope as reasonably possible under the circumstances.

若继续使用会对云服务或其用户造成严重损害，CDC 可暂停或限制对云服务的使用。CDC 应就此类暂停或限制及时告知客户。CDC 应视情况限定合理可行的暂停或限制时间和范围。

2.6 Third Party Web Services.

第三方 Web 服务。

The Cloud Service may include integrations with web services made available by third parties that are accessed through the Cloud Service and subject to terms and conditions with those third parties. These third party web services are not part of the Cloud Service and the Agreement does not apply to them.

云服务可能包括与第三方提供的 Web 服务的集成，此类 Web 服务可通过云服务进行访问，但受此类第三方的条款和条件的制约。此类第三方 Web 服务不属于云服务的一部分，因此本协议对其不予适用。

2.7 Mobile Access to Cloud Service.

移动访问云服务。

Authorized Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app store. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement.

授权用户可以通过其经由安卓或苹果应用商店等第三方网站获取的移动应用程序访问某些云服务。对移动应用程序的使用可能受到在下载/访问该移动应用程序时出现的条款和条件的约束，而不受本协议条款的约束。

2.8 On-Premise Components.

企业预置型组件。

The Cloud Service may include on-premise components that can be downloaded and installed (including updates) by Customer. The System Availability SLA does not apply to these components.

云服务可能包括客户可下载和安装的企业预置型组件（包括更新）。系统可用性 SLA 不适用于这些组件。

3. CDC RESPONSIBILITIES

CDC 的责任

3.1 Provisioning.

服务。

CDC provides access to the Cloud Service as described in the Agreement.

CDC 应根据协议规定提供对云服务的访问权限。

3.2 Support.

支持。

CDC provides support for the Cloud Service as referenced in the Order Form.

CDC 应为订购单中所述的云服务提供支持。

3.3 Security.

安全。

CDC will implement and maintain appropriate technical and organizational measures to protect the personal data processed by CDC as part of the Cloud Service as described in the Data Processing Agreement for CDC Cloud Services incorporated into the Order Form in compliance with applicable data protection law.

CDC 将根据订购单中 CDC 云服务的个人数据处理协议实施并保持适当的技术措施和组织措施，以根据适用数据保护法的规定，确保在提供云服务过程中处理的个人数据的安全。

3.4 Modifications.

修改。

(a) The Cloud Service and CDC Policies may be modified by CDC. CDC will inform Customer of modifications by email, the support portal, release notes, Documentation or the Cloud Service. The information will be delivered by email if the modification is not solely an enhancement. Modifications may include optional new features for the Cloud Service, which Customer may use subject to the then-current Supplement and Documentation.

CDC 可修改云服务和 CDC 政策。CDC 将通过电子邮件、支持门户、发行说明、文档或云服务通知客户有关修改。若修改不仅涉及增强，则 CDC 将以电子邮件的形式告知相关信息。修改可能包括针对云服务提供的可选的新功能，客户可依据届时有效的补充条款和文档使用该等新功能。

(b) If Customer establishes that a modification is not solely an enhancement and materially reduces the Cloud Service, Customer may terminate its subscriptions to the affected Cloud Service by providing written notice to CDC within thirty days after receipt of CDC's informational notice.

若客户认为某项修改不仅仅涉及增强且实质性减少了云服务，则客户可在收到 CDC 发出的通知信息

后三十（30）天内以向 CDC 发送书面通知的形式终止其对相关云服务的租用。

3.5 Analyses.

分析报告。

CDC or its subcontractors may create analyses utilizing, in part, Customer Data and information derived from Customer's use of the Cloud Service and Consulting Services, as set forth below ("**Analyses**"). Analyses will anonymize and aggregate information and will be treated as Cloud Materials.

CDC 及其分包商在某种程度上可以利用客户使用云服务和咨询服务所产生的客户数据和信息，创建如下所述的分析报告（以下简称“**分析报告**”）。分析报告采用匿名的方式来聚合信息，应视为云资料。

Unless otherwise agreed, personal data contained in Customer Data is only used to provide the Cloud Service and Consulting Services. Analyses may be used for the following purposes: 除非另行约定，客户数据中包含的个人数据仅可用于提供云服务和咨询服务。分析报告可以用于以下用途：

- a) product improvement (in particular, product features and functionality, workflows and user interfaces) and development of new products and services,
改进产品（尤其是产品特性和功能、工作流和用户界面）以及开发新的产品和服务，
- b) improving resource allocation and support,
优化资源配置和支持，
- c) internal demand planning,
完善内部需求计划，
- d) training and developing machine learning algorithms,
训练和开发机器学习算法，
- e) improving product performance,
提高产品性能，
- f) verification of security and data integrity
验证安全性和数据完整性
- g) identification of industry trends and developments, creation of indices and anonymous benchmarking.
判断行业趋势和发展成果，制定指标和匿名对标。

4. CUSTOMER AND PERSONAL DATA

客户和个人数据

4.1 Customer Data.

客户数据。

Customer is responsible for the Customer Data and entering it into the Cloud Service. Customer grants to CDC and its subcontractors a nonexclusive right to process Customer Data solely to provide and support the Cloud Service.

客户负责提供客户数据并将其输入到云服务中。客户授予 CDC 及其分包商非独占的权利，允许其出于提供和支持云服务之唯一目的处理客户数据。

4.2 Personal Data.

个人数据。

Customer will collect and maintain all personal data contained in the Customer Data in compliance with applicable data privacy and protection laws.

客户应依据适用数据隐私和保护法的规定，收集和维护客户数据中包含的所有个人数据。

4.3 Security.

安全。

Customer will maintain reasonable security standards for its Authorized Users' use of the Cloud Service. Customer will not conduct or authorize penetration tests of the Cloud Service without advance approval from CDC.

客户应就其授权用户对云服务的使用制定合理的安全标准。未经 CDC 事先批准，客户不得进行或授权对云服务进行渗透测试。

4.4 Access to Customer Data.

对客户数据的访问。

- (a) During the Subscription Term, Customer can access its Customer Data at any time.

Customer may export and retrieve its Customer Data in a standard format. Export and retrieval may be subject to technical limitations, in which case CDC and Customer will find a reasonable method to allow Customer access to Customer Data.

在租用期限内，客户能够随时访问其客户数据。客户可以标准格式导出和检索其客户数据。导出和检索可能会受到文档所述的技术限制，在此情形下，CDC 与客户应共同找到一种合理的方法以使客户能够访问客户数据。

- (b) Before the Subscription Term expires, Customer may use CDC's self-service export tools (as available) to perform a final export of Customer Data from the Cloud Service.

在租用期限届满之前，客户可以使用 CDC 的自助服务导出工具（视提供情况而定）执行客户数据从云服务中的最终导出操作。

- (c) At the end of the Agreement, CDC will delete or overwrite the Customer Data remaining on servers hosting the Cloud Service unless applicable law requires retention. Retained data is subject to the confidentiality provisions of the Agreement.

协议有效期结束时，CDC 会删除或覆盖托管云服务的服务器上保留的客户数据，除非适用法律要求保留这些数据。保留的数据受协议保密条款的约束。

- (d) In the event of third party legal proceedings relating to the Customer Data, CDC will cooperate with Customer and comply with applicable law (both at Customer's expense) with respect to handling of the Customer Data.

如第三方就客户数据提起法律诉讼，CDC 应配合客户并遵守适用于客户数据处理的相关法律（费用均由客户承担）。

5. FEES AND TAXES

费用和税费

5.1 Fees and Payment.

费用和付款。

Customer will pay fees as stated in the Order Form. After prior written notice, CDC may suspend Customer's use of the Cloud Service until payment is made. Customer cannot withhold, reduce or set-off fees owed nor reduce Usage Metrics during the Subscription Term. All Order Forms are non-cancellable and fees non-refundable.

客户应支付订购单中所规定的费用。在提前发送书面通知之后，CDC 可暂停客户对云服务的使用，直到客户支付全部费用为止。客户不得预扣、减少或抵免在租用期间所欠的费用或者降低使用指标。所有订购单均不可撤销，且所有费用不予退还。

5.2 Taxes.

税费。

Fees and other charges imposed under an Order Form will not include taxes, all of which will be for Customer's account. Customer is responsible for all taxes, other than CDC's income and payroll taxes. Customer must provide to CDC any direct pay permits or valid tax-exempt certificates prior to signing an Order Form. If CDC is required to pay taxes (other than its income and payroll taxes), Customer will reimburse CDC for those amounts and indemnify CDC for any taxes and related costs paid or payable by CDC attributable to those taxes.

依据订购单收取的费用及其他收费均不含税费，所有该等税费应由客户负担。除 CDC 的所得税和工资税以外，客户应负责缴纳所有税款。在签署订购单之前，客户必须向 CDC 提交任何直接支付许可或有效免税证明。若 CDC 被要求缴纳税款（其所得税和工资税以外的税款），客户应偿付 CDC 该税款金额并就 CDC 因该等税款所缴纳或应缴纳的任何税款及相关成本对其给予补偿。

6. TERM AND TERMINATION

期限和终止

6.1 Term.

期限。

The Subscription Term is as stated in the Order Form.

租用期限详见订购单。

6.2 Termination.

终止。

A party may terminate the Agreement:

任何一方均可在以下情况下终止本协议：

- (a) upon thirty days written notice of the other party's material breach unless the breach is cured during that thirty day period,
在书面通知另一方其实质性违反协议的三十（30）天后，除非该违反行为于上述三十（30）天期间内予以纠正；
- (b) as permitted under Sections 3.4(b), 7.3 (b), 7.4 (c), or 8.1 (c) (with termination effective thirty days after receipt of notice in each of these cases), or
根据第 3.4(b)、7.3(b)、7.4(c)或 8.1(c)节的规定（在上述各个情况下，终止均在收到通知后的三十（30）天后生效）；或
- (c) immediately if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or otherwise materially breaches Sections 11 or 12.6.
如另一方进入破产申请程序、无力偿还债务或者为债权人利益进行分配，或实质性违反了第 11 节或第 12.6 节中的规定，则可立即予以终止。

6.3 Refund and Payments.

退款和付款。

For termination by Customer in accordance with this GTC or an 8.1(c) termination, Customer will be entitled to:

对于客户提起的遵照本通用条款的终止或第 8.1(c)节中所述的终止情形，客户应有权：

- (a) a pro-rata refund in the amount of the unused portion of prepaid fees for the terminated subscription calculated as of the effective date of termination, and
针对终止租用获得按比例退还的已预付但尚未使用的部分的费用，该费用自终止生效之日起开始计算，且
- (b) a release from the obligation to pay fees due for periods after the effective date of termination.
免除支付终止生效后的期间内的应付费用的义务。

6.4 Effect of Expiration or Termination.

有效期届满或终止的效力。

Upon the effective date of expiration or termination of the Agreement:

协议有效期届满或终止生效后：

- (a) Customer's right to use the Cloud Service and all CDC Confidential Information will end,
客户对云服务及所有 CDC 保密信息的使用权利均将终止；
- (b) Confidential Information of the disclosing party will be returned or destroyed as required by the Agreement, and
披露方的保密信息将按协议要求退还或销毁；且
- (c) termination or expiration of the Agreement does not affect other agreements between the parties.
协议的终止或有效期届满不会影响双方之间的其他协议。

6.5 Survival.

存续。

Sections 1, 5, 6.3, 6.4, 6.5, 8, 9, 10, 11, and 12 will survive the expiration or termination of the Agreement.

第 1、5、6.3、6.4、6.5、8、9、10、11 和 12 节的规定在本协议有效期届满或终止之后继续有效。

7. WARRANTIES

保证

7.1 Compliance with Law.

法律合规。

Each party warrants its current and continuing compliance with all laws and regulations applicable to it in connection with:

各方保证，将遵守在以下方面对其适用的所有法律法规：

- (a) in the case of CDC, the operation of CDC's business as it relates to the Cloud Service, and
对 CDC 而言，与云服务相关的 CDC 业务运营；且
- (b) in the case of Customer, the Customer Data and Customer's use of the Cloud Service.

对客户而言，客户数据及客户对云服务的使用。

7.2 Good Industry Practices.

良好的行业实践。

CDC warrants that it will provide the Cloud Service:

CDC 保证，其将按以下标准提供云服务：

- (a) in substantial conformance with the Documentation; and
实质性符合文档所述；且
- (b) with the degree of skill and care reasonably expected from a skilled and experienced global supplier of services substantially similar to the nature and complexity of the Cloud Service.
达到对技术熟练、经验丰富并且所提供的服务与云服务的性质和复杂性大致相近的全球供应商合理期望的技术水准和服务水平。

7.3 Remedy.

补救措施。

Customer's sole and exclusive remedies and CDC's entire liability for breach of the warranty under Section 7.2 will be:

对于违反第 7.2 节中所规定的保证义务的行为，客户可获得的唯一排他补救措施及 CDC 应承担的全部责任为：

- (a) the re-performance of the deficient Cloud Service, and
重新提供不达标准的云服务；且
- (b) if CDC fails to re-perform, Customer may terminate its subscription for the affected Cloud Service. Any termination must occur within three months of CDC's failure to re-perform.
若 CDC 未重新提供，客户可终止其对相关云服务的租用。任何终止均须在 CDC 未能重新提供后的三（3）个月内实施。

7.4 System Availability.

系统可用性。

- (a) CDC warrants to maintain an average monthly system availability for the production system of the Cloud Service as defined in the applicable service level agreement or Supplement ("SLA").
CDC 保证依照适用服务水平协议或补充条款 ("SLA") 的规定，维持云服务生产系统的月平均系统可用性。
- (b) Customer's sole and exclusive remedy for CDC's breach of the SLA is the issuance of a credit in the amount described in the SLA. Customer will follow CDC's posted credit claim procedure. When the validity of the service credit is confirmed by CDC in writing (email permitted), Customer may apply the credit to a future invoice for the Cloud Service or request a refund for the amount of the credit if no future invoice is due.
如 CDC 违反 SLA，客户能获得的唯一排他补救措施是 SLA 中所述额度的抵免。客户应遵循 CDC 发布的抵免申请程序。服务抵免的有效性一经 CDC 书面确认（可以电子邮件的形式），客户即可将该抵免于以后针对云服务开具的发票中，或者如果没有未来到期的发票，则可请求退还该抵免金额。
- (c) In the event CDC fails to meet the SLA (i) for four consecutive months, or (ii) for five or more months during any twelve months period, or (iii) at a system availability level of at least 95% for one calendar month, Customer may terminate its subscriptions for the affected Cloud Service by providing CDC with written notice within thirty days after the failure.
若 CDC 未达到 SLA 的情形 (i) 持续四个月，或 (ii) 在任何十二（12）个月期间的达到五（5）个月或更多月份，或 (iii) 在某个日历月的系统可用性等级为最低 95%，则客户可在未达到 SLA 之后的三十（30）天内，通过向 CDC 发送书面通知的形式终止其对相关云服务的租用。

7.5 Warranty Exclusions.

保证排除条款。

The warranties in Sections 7.2 and 7.4 will not apply if:

第 7.2 和 7.4 节中的保证规定不适用于以下情况：

- (a) the Cloud Service is not used in accordance with the Agreement or Documentation,
云服务的使用不符合协议或文档的规定，
- (b) any non-conformity is caused by Customer, or by any product or service not provided by

- CDC, or
不符合情形是因客户或非 CDC 提供的任何产品或服务,
- (c) the Cloud Service was provided for no fee.
或者免费提供的云服务所引起。

7.6 Disclaimer.

免责声明。

Except as expressly provided in the Agreement, neither CDC nor its subcontractors and licensors make any representation or warranties, express or implied, statutory or otherwise, regarding any matter, including the merchantability, suitability, originality, or fitness for a particular use or purpose, non-infringement or results to be derived from the use of or integration with any products or services provided under the Agreement, or that the operation of any products or services will be secure, uninterrupted or error free. Customer agrees that it is not relying on delivery of future functionality, public comments or advertising of CDC or product roadmaps in obtaining subscriptions for any Cloud Service.

除非协议明确规定, 否则 CDC 及其分包商和许可方不以法定形式或其他方式, 就任何事宜, 包括适销性、适用性、独创性或适合特定用途或目的, 通过使用和集成依据协议提供的任何产品或服务衍生出的不侵权或结果, 或任何产品或服务的操作安全、不会出现中断或错误, 做任何明示或暗示的陈述或担保。客户同意, 其在获得任何云服务租用时未依赖 CDC 未来的功能交付、公共评论或广告或者产品路线图。

8. THIRD PARTY CLAIMS

第三方索赔

8.1 Claims Brought Against Customer.

对客户提出的索赔。

- (a) CDC will defend Customer against claims brought against Customer and its Affiliates by any third party alleging that Customer's and its Affiliates' use of the Cloud Service infringes or misappropriates a patent claim, copyright, or trade secret right. CDC will indemnify Customer against all damages finally awarded against Customer (or the amount of any settlement CDC enters into) with respect to these claims.

对于任何第三方声称客户及其关联企业对云服务的使用侵犯或盗用专利权申请、版权或商业秘密权而对客户及关联企业提出索赔, CDC 应为客户及其关联企业提供抗辩。CDC 将会承担就此类索赔对客户最终裁定的赔偿金 (或 CDC 达成的任何和解金额)。

- (b) CDC's obligations under Section 8.1 will not apply if the claim results from (i) Customer's breach of its obligations under this Agreement, (ii) use of the Cloud Service in conjunction with any product or service not provided by CDC, or (iii) use of the Cloud Service provided for no fee.

第 8.1 节中规定的 CDC 应承担的义务不适用于因以下情况提出的索赔: (i) 客户违反其在本协议项下的义务, (ii) 将云服务与非 CDC 提供的任何产品或服务一起使用, 或者 (iii) 使用免费提供的云服务。

- (c) In the event a claim is made or likely to be made, CDC may (i) procure for Customer the right to continue using the Cloud Service under the terms of the Agreement, or (ii) replace or modify the Cloud Service to be non-infringing without a material decrease in functionality. If these options are not reasonably available, CDC or Customer may terminate Customer's subscription to the affected Cloud Service upon written notice to the other.

在提出索赔或可能提出索赔的情况下, CDC 可: (i) 为客户取得依据协议条款继续使用云服务的权利; 或 (ii) 在不实质性减少功能的情况下更换或修改云服务, 做到不侵权。若无法合理提供上述选项, 则 CDC 或客户可在书面通知对方之后终止客户对相关云服务的租用。

8.2 Claims Brought Against CDC.

对 CDC 提出的索赔。

Customer will defend CDC against claims brought against CDC and its subcontractors by any third party related to Customer Data.

对于任何第三方就客户数据对 CDC 及其分包商提起的索赔, 客户应为 CDC 提供抗辩。

Customer will indemnify CDC against all damages finally awarded against CDC and its subcontractors (or the amount of any settlement Customer enters into) with respect to these claims.

客户将会承担就此类索赔对 CDC 及其分包商最终裁定的赔偿金 (或客户达成的任何和解金额)。

8.3 Third Party Claim Procedure.

第三方索赔程序。

- (a) The party against whom a third party claim is brought will timely notify the other party in writing of any claim, reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the party providing the defense.
第三方索赔所针对的一方应及时书面通知另一方此类索赔，在此类索赔的抗辩过程中予以合理的配合，并可（自行承担费用）聘请提供抗辩的一方可合理接受的律师出庭提供抗辩。
- (b) The party that is obligated to defend a claim will have the right to fully control the defense.
负有索赔抗辩义务的一方拥有抗辩的全权控制权。
- (c) Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.
索赔的任何和解结果不应包括被索赔一方的经济赔偿或特定履行义务或对其责任的承认。

8.4 Exclusive Remedy.

排他补救措施。

The provisions of Section 8 state the sole, exclusive, and entire liability of the parties, their Affiliates, Business Partners and subcontractors to the other party, and is the other party's sole remedy, with respect to covered third party claims and to the infringement or misappropriation of third party intellectual property rights.

第8节规定了协议双方及其关联企业、业务合作伙伴和分包商就本协议项下涉及的第三方索赔及侵犯或盗用第三方知识产权对另一方唯一的、排他性的和全部的责任以及是另一方的唯一补救措施。

9. LIMITATION OF LIABILITY

责任限制

9.1 Unlimited Liability.

无限责任。

Neither party will exclude or limit its liability for damages resulting from:

任何一方均不得排除或限制其就以下各项引起的损害所应承担的责任：

- (a) the parties' obligations under Section 8.1(a) and 8.2,
双方在第8.1(a)和8.2节项下的义务，
- (b) unauthorized use or disclosure of Confidential Information,
未经授权使用或披露保密信息，
- (c) either party's breach of its data protection and security obligations that result in an unauthorized use or disclosure of personal data,
任一方因违反其数据保护和网络安全义务而导致未经授权使用或披露个人数据，
- (d) death or bodily injury arising from either party's gross negligence or willful misconduct, or
因任一方的重大过失或有意过错而引起的死亡或人身伤害，或
- (e) any failure by Customer to pay any fees due under the Agreement.
客户未能支付协议项下的任何应付费用。

9.2 Liability Cap.

责任限额。

Subject to Sections 9.1 and 9.3, the maximum aggregate liability of either party (or its parent company, respective Affiliates or subcontractors) to the other or any other person or entity for all events (or series of connected events) arising in any twelve month period will not exceed the annual subscription fees paid for the applicable Cloud Service directly causing the damage for that twelve month period. Any "twelve month period" commences on the Subscription Term start date or any of its yearly anniversaries.

依据第9.1和9.3节的规定，对于在任何十二个月期间内发生的所有事件（或一系列相关事件），任何一方（或其母公司，相关关联企业或分包商）对另一方或任何其他个人或实体承担的最大责任总额均不得超过为直接引起损害的相关云服务在该十二个月期间内所支付的年度租用费用。“十二个月期间”自租用期限开始日期或其任一年度周年日开始。

9.3 Exclusion of Damages.

损害排除。

Subject to Section 9.1:

依据第9.1节：

- (a) neither party (nor its parent company, respective Affiliates or subcontractors) will be liable to the other party for any special, incidental, consequential, or indirect damages, loss of good will or business profits, work stoppage or for exemplary or punitive damages, and
任何一方（或其母公司，相关关联企业或分包商）均不就任何特殊的、偶发的、衍生的或间接的损害、商誉或利润损失、停工、惩戒性的或惩罚性损失对另一方承担责任，且
- (b) CDC will not be liable for any damages caused by any Cloud Service provided for no fee.
CDC 不就因任何免费提供的云服务而引起的损害承担责任。

9.4 Risk Allocation.

风险分配。

The Agreement allocates the risks between CDC and Customer. The fees for the Cloud Service and Consulting Services reflect this allocation of risk and limitations of liability.

本协议将风险在 CDC 与客户之间进行了分配。云服务和咨询服务的费用反映了前述风险分配和责任限制。

10. INTELLECTUAL PROPERTY RIGHTS

知识产权

10.1 CDC Ownership.

CDC 所有权。

CDC and its licensors own all intellectual property rights in and related to the Cloud Service, Cloud Materials, Documentation, Consulting Services, design contributions, related knowledge or processes, and any derivative works of them (“Works”). All rights not expressly granted to Customer are reserved to CDC and its licensors. Where intellectual property in any Works conceived or created by either party cannot by law vest in CDC or its licensors as mentioned above, Customer grants CDC or such licensors a non-exclusive, perpetual, irrevocable, worldwide, fully-paid up license to use, modify, create derivative works, sublicense to CDC’s and SAP’s licensees and customers or otherwise exploit such Works in any manner without reference to the source. Customer shall assist CDC and SAP in performing any formalities required by law to obtain such license grant.

CDC 及其许可方拥有云服务、云材料、文档、咨询服务、设计贡献、相关知识或流程及其任何衍生作品（以下简称“作品”）中所含的及相关的全部知识产权。CDC 及其许可方保留未明确授予客户的所有权利，如果任何一方就作品所构想或创作的任何知识产权依法不能属于 CDC 或其许可方，客户在此向 CDC 或其许可方授予一项非排他的、永久的、不可撤销的、全世界范围的、许可费缴足的许可，以允许 CDC 或其许可方使用、修改、创作衍生作品，向 CDC 和 SAP 的被许可方和客户进行分许可，或在不提及来源的情况下以任何其他方式对该等作品进行开发。客户应协助 CDC 和 SAP 办理法律规定的授予上述许可所需的所有手续。

10.2 Customer Ownership.

客户所有权。

Customer retains all rights in and related to the Customer Data. CDC may use Customer-provided trademarks solely to provide and support the Cloud Service.

客户保留客户数据中所含的及相关的全部权利。CDC 仅可出于提供和支持云服务之目的使用客户提供的商标。

10.3 Non-Assertion of Rights.

不主张权利。

Customer covenants, on behalf of itself and its successors and assigns, not to assert against CDC or its licensors, any rights, or any claims of any rights, in any Cloud Service, Cloud Materials, Documentation, or Consulting Services.

客户以其自身名义并代表其继任者和受让人保证，不向 CDC 及其许可方就任何云服务、云材料、文档或咨询服务主张拥有任何权利或提出任何权利索赔。

11. CONFIDENTIALITY

保密

11.1 Use of Confidential Information.

保密信息的使用。

- (a) The receiving party will protect all Confidential Information of the disclosing party as strictly confidential to the same extent it protects its own Confidential Information, and not less than a reasonable standard of care. Receiving party will not disclose any

Confidential Information of the disclosing party to any person other than its personnel, representatives or Authorized Users whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality substantially similar to those in Section 11. Customer will not disclose the Agreement or the pricing to any third party.

接收方应按照与保护自己的保密信息相同的严格程度保护披露方的全部保密信息，且此类措施至少应具备合理的谨慎态度。除了为行使本协议项下的权利或履行本协议项下的义务而需要获取保密信息，并承担与第 11 节规定的条款大体类似的保密义务的员工、代表或授权用户，接收方不得向任何人员披露披露方的任何保密信息。客户不得向任何第三方披露本协议或价格。

- (b) Confidential Information of either party disclosed prior to execution of the Agreement will be subject to Section 11.

任何一方在签署本协议之前披露的保密信息均受到第 11 节规定的约束。

- (c) In the event of legal proceedings relating to the Confidential Information, the receiving party will cooperate with the disclosing party and comply with applicable law (all at disclosing party's expense) with respect to handling of the Confidential Information.

如提起与保密信息相关的法律诉讼，接收方应配合披露方并遵守适用于保密信息处理的法律（费用均由披露方承担）。

11.2 Exceptions.

例外条款。

The restrictions on use or disclosure of Confidential Information will not apply to any Confidential Information that:

有关保密信息的使用或披露的限制条款不适用于以下任何保密信息：

- (a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information,
在未使用披露方的保密信息的情况下，由接收方独立开发的信息；
- (b) is generally available to the public without breach of the Agreement by the receiving party,
在接收方未违反本协议的情况下，为公众所知的保密信息；
- (c) at the time of disclosure, was known to the receiving party free of confidentiality restrictions, or
在披露之时已为接收方所知且不受保密限制的保密信息；或
- (d) the disclosing party agrees in writing is free of confidentiality restrictions.
披露方书面同意免除保密限制的信息。

11.3 Publicity.

公开。

Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that Customer agrees that CDC, SAP SE or their Affiliate may use Customer's name in customer listings or quarterly calls with its investors or, at times mutually agreeable to the parties, as part of CDC's, SAP SE's or their Affiliates' marketing efforts (including reference calls and stories, press testimonials, site visits, SAPPHERE participation). Customer agrees that CDC may share information on Customer with SAP SE and its Affiliates for marketing and other business purposes and that it has secured appropriate authorizations to share Customer employee contact information with SAP SE and its Affiliates.

未经另一方事先书面同意，任何一方不得将对方的名称用于公开活动中，但客户同意 CDC, SAP SE 或其关联公司将客户的名称用于客户名单或与投资者举行的季度电话会议中的，或作为 CDC, SAP SE 或其关联公司的营销工作（包括推荐电话与样板客户案例、新闻推荐、现场拜访、参加 SAPPHERE 大会）的一部分以双方一致同意的次数进行使用的除外。客户同意，CDC 可出于营销和其他业务目的 SAP SE 及其关联企业分享有关客户的信息，且客户自身已获得与 SAP SE 及其关联公司分享客户员工联系信息的相应授权。

12. MISCELLANEOUS

其他条款

12.1 Severability.

可分割性。

If any provision of the Agreement is held to be invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.

如本协议的任何条款被裁定为无效或不可执行，则该无效或不可执行不会影响协议的其他条款。

12.2 No Waiver.

无弃权。

A waiver of any breach of the Agreement is not deemed a waiver of any other breach.

对任何违反协议规定的行为放弃追究的权利不应视为对任何其他违约行为放弃追究的权利。

12.3 Electronic Signature.

电子签名。

Electronic signatures that comply with applicable law are deemed original signatures.

遵守适用法律的电子签名应视为原始签名。

12.4 Regulatory Matters.

法定事项。

CDC Confidential Information is subject to export control laws of various countries, including the laws of the United States and Germany. Customer will not submit CDC Confidential Information to any government agency for licensing consideration or other regulatory approval, and will not export CDC Confidential Information to countries, persons or entities if prohibited by export laws.

CDC 保密信息受到不同国家/地区的出口管制法律的限制，包括美国和德国的法律。客户不会因许可或其他法定审批事宜而向任何政府部门提交 CDC 保密信息，且不会向出口法律禁止的国家/地区、个人或实体出口 CDC 保密信息。

12.5 Notices.

通知。

All notices will be in writing and given when delivered to the address set forth in an Order Form with copy to the legal department. Notices by CDC relating to the operation or support of the Cloud Service and those under Sections 3.4 and 5.1 may be in the form of an electronic notice to Customer's authorized representative or administrator identified in the Order Form. 所有通知均在以书面形式递送至订购单中所列地址且法务部门收到副本时视为送达。CDC 发出的有关云服务运营或支持的通知以及依照第 3.4 和 5.1 节发送的通知均可以电子通知的形式发送给订购单中所列的客户授权代表或管理员。

12.6 Assignment.

转让。

Without CDC's prior written consent, Customer may not assign or transfer the Agreement (or any of its rights or obligations) to any party. CDC may assign the Agreement to SAP SE or any of its Affiliates.

未经 CDC 事先书面同意，客户不得将协议（或其任何权利或义务）转移或让与任何一方。CDC 可将协议让与 SAP SE 或其任一关联企业。

12.7 Subcontracting.

分包。

CDC may subcontract parts of the Cloud Service or Consulting Services to third parties. CDC is responsible for breaches of the Agreement caused by its subcontractors.

CDC 可将部分云服务或咨询服务分包给第三方。CDC 应对其分包商违反协议的行为承担责任。

12.8 Relationship of the Parties.

双方关系。

The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created by the Agreement.

协议双方为独立的签约方，且协议不构成协议双方间任何的合作伙伴、特许、合资、代理、信托或雇佣关系。

12.9 Force Majeure.

不可抗力。

Any delay in performance or nonperformance (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing party (including but not limited to earthquake, fire, flood, natural disasters, exceptionally severe weather, war, acts of terrorism, embargo, strike, riot, a failure of a public utility or public telecommunications system, governmental censorship, prohibition or expropriation, or any or the intervention of any governmental authority) is not a breach of the Agreement. The time

for performance will be extended for a period equal to the duration of the conditions preventing performance.

因超出履行协议一方合理控制原因而造成对本协议的迟延履行或不履行的（包括但不限于地震、火灾、水灾、自然灾害、异常恶劣天气、战争、恐怖主义、禁运、罢工、暴动行为、公共事业或公共电信系统失常、政府的审查制度、禁止或征用、或任何政府机关任何的干预、到期款项之支付义务除外），不应构成对本协议的违约。这种情况下，应延长协议的履行期限，延长时间应等于妨碍履约的情形的存续时间。

12.10 Governing Law.

管辖法律。

The Agreement and any claims relating to its subject matter will be governed by and construed under the laws of the People's Republic of China. All disputes will be subject to the exclusive jurisdiction of the courts located in Guangzhou. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement.

协议以及与其主旨相关的任何索赔均应受中华人民共和国法律的管辖并据此做出解释。所有争议仅受位于广州的法院管辖。《联合国国际货物销售合同公约》和《统一计算机信息交易法案》（若实施）不适用于本协议。

12.11 Entire Agreement.

完整协议。

The Agreement constitutes the complete and exclusive statement of the agreement between CDC and Customer in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement and the parties disclaim any reliance on them. The Agreement may be modified solely in writing signed by both parties, except as permitted under Section 3.4. An Agreement will prevail over terms and conditions of any Customer-issued purchase order, which will have no force and effect, even if CDC accepts or does not otherwise reject the purchase order.

本协议构成 CDC 与客户就协议主旨所达成的有关双方商业关系的协议的完整且唯一的声明。之前的一切陈述、磋商与文书（包括任何保密协议）均已并入本协议并由本协议替代，且双方声明不再依赖任何此类陈述、磋商与文书。除第 3.4 节中允许的范围外，本协议惟经双方书面签署方可进行修改。协议的效力应高于客户签发的任何采购订单中的条款和条件；此类条款和条件不具备任何效力，即使 CDC 接受或未以其他形式拒绝该采购订单，也是如此。

12.12 Governing Language

管辖语言

This Agreement is prepared in English and Chinese languages. In the case of any conflict or inconsistency, the Chinese language version shall prevail.

本协议以中英文书就。两种文本如有抵触或不一致之处，以中文文本为准。

Glossary

术语表

- 1.1 "Affiliate"** of a party means any legal entity in which a party, directly or indirectly, holds more than fifty percent (50%) of the entity's shares or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.
一方的“关联企业”是指一方直接或间接拥有百分之五十（50%）以上股份或表决权的任何法人实体。前述权益存续期间，该法律实体被视为关联企业。
- 1.2 "Agreement"** means an Order Form and documents incorporated into an Order Form.
“协议”是指订购单以及纳入订购单的文件。
- 1.3 "Authorized User"** means any individual to whom Customer grants access authorization to use the Cloud Service that is an employee, agent, contractor or representative of
“授权用户”是指客户向其授予使用云服务的访问权限的任何个人，此类个人可以是以下各方的员工、代理、承包商或代表：
- (a) Customer,
客户，
 - (b) Customer's Affiliates, and/or
客户的关联企业和/或
 - (c) Customer's and Customer's Affiliates' Business Partners.
客户及其关联企业的业务合作伙伴。
- 1.4 "Business Partner"** means a legal entity that requires use of a Cloud Service in connection with Customer's and its Affiliates' internal business operations. These may include customers, distributors, service providers and/or suppliers of Customer.
“业务合作伙伴”是指需要使用与客户及其关联企业内部业务运营有关的云服务的法人实体。其中可能包括客户、分销商、服务提供商和/或客户的供应商。
- 1.5 "CDC" means China Datacom Corporation Limited.**
“CDC”或“中数通”是指中数通信息有限公司。
- 1.6 "CDC Policies"** means the operational guidelines and policies applied by CDC to provide and support the Cloud Service as incorporated in an Order Form.
“CDC 政策”是指纳入订购单中的、CDC 在提供和支持云服务过程中所应用的运营指南和政策。
- 1.7 "Cloud Service"** means any distinct, subscription-based, hosted, supported and operated on-demand solution provided by CDC (that is based on SAP SE's technology) under an Order Form.
“云服务”是指由 CDC(基于 SAP SE 的技术)根据订购单提供的任何独有的、按需租用的、托管式支持和运营的按需解决方案。
- 1.8 "Cloud Materials"** mean any materials provided or developed by CDC (independently or with Customer's cooperation) in the course of performance under the Agreement, including in the delivery of any support or Consulting Services to Customer. Cloud Materials do not include the Customer Data, Customer Confidential Information or the Cloud Service.
“云材料”是指在履行协议过程中（包括在向客户交付任何支持或咨询服务的过程中）由 CDC（独立或与客户合作）提供或开发的任何材料。云材料不包括客户数据、客户保密信息或云服务。
- 1.9 "Confidential Information"** means
“保密信息”是指
- (a) with respect to Customer: (i) the Customer Data, (ii) Customer marketing and business requirements, (iii) Customer implementation plans, and/or (iv) Customer financial information, and
就客户而言：(i) 客户数据，(ii) 客户的市场营销和业务需求，(iii) 客户的实施计划，和/或 (iv) 客户的财务信息，以及
 - (b) with respect to CDC: (i) the Cloud Service, Documentation, Cloud Materials and analyses under Section 3.5, and (ii) information regarding CDC research and development, product offerings, pricing and availability.
就 CDC 而言：(i) 第 3.5 节规定的云服务、文档、云材料和分析，以及 (ii) 与 CDC 研发、产品供应、定价和可用性有关的信息。
 - (c) Confidential Information of either CDC or Customer also includes information which the disclosing party protects against unrestricted disclosure to others that (i) the disclosing party or its representatives designates as confidential at the time of disclosure, or

(ii) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.

CDC 或客户的保密信息还包括披露方防止向他人不受限制地进行披露的信息，其中包括：(i) 披露方或其代表在披露时规定具有保密性的信息；或 (ii) 根据其性质或披露时的情形应被视为具有保密性的信息。

1.10 "Consulting Services" means professional services, such as implementation, configuration, custom development and training, performed by CDC's employees or subcontractors as described in any Order Form and which are governed by the Supplement for Consulting Services or similar agreement.

"咨询服务"是指 CDC 的员工或分包商依照订购单所述执行的专业服务，如实施、配置、自定义开发和培训，且此类服务受咨询服务的补充条款或类似协议的制约。

1.11 "Customer Data" means any content, materials, data and information that Authorized Users enter into the production system of a Cloud Service or that Customer derives from its use of and stores in the Cloud Service (e.g. Customer-specific reports). Customer Data and its derivatives will not include CDC's Confidential Information.

"客户数据"是指授权用户向云服务生产系统中输入的任何内容、材料、数据和信息，或者客户从使用云服务的过程中获得的以及存储在云服务中的任何内容、材料、数据和信息（例如，客户特定报告）。客户数据及其衍生物均不包括 CDC 的保密信息。

1.12 "Documentation" means CDC's then-current technical and functional documentation as well as any roles and responsibilities descriptions, if applicable, for the Cloud Service which is made available to Customer with the Cloud Service.

"文档"是指 CDC 随云服务一起提供给客户的针对云服务的届时最新的技术性和功能性文档以及任何角色和责任的说明（如适用）。

1.13 "Order Form" means the ordering document for a Cloud Service that references the GTC.

"订购单"是指用于订购云服务并在其中引述了 GTC 的文件。

1.14 "SAP SE" means SAP SE, a public listed company on Frankfurt Stock Exchange and NYSE.

"SAP SE"是指 SAP SE, 一家在法兰克福证券交易所和纽约证券交易所挂牌的上市公司。

1.15 "Subscription Term" means the term of a Cloud Service subscription identified in the applicable Order Form, including all renewals.

"租用期限"是指适用订购单中规定的云服务租用期限，包括所有续租。

1.16 "Supplement" means the supplemental terms and conditions that apply to the Cloud Service and that are incorporated in an Order Form.

"补充条款"是指适用于云服务并纳入订购单的补充条款和条件。

1.17 "Usage Metric" means the standard of measurement for determining the permitted use and calculating the fees due for a Cloud Service as set forth in an Order Form.

"使用指标"是指用于确定对订购单中规定的云服务所进行的许可使用并据其计算应付费用的衡量标准。