

MEMGRAPH CLOUD LICENCE – TERMS OF SERVICE

INTRODUCTION

Memgraph Cloud is a cloud-based in-memory graph database which allows customers access to real-time graph analytics and transactions (the “**Service**”). These terms and conditions (“**Terms**”) govern how customers may order, access and use the Service.

The Service is operated by Memgraph Ltd (company number 10195084) with its registered office at Suite 4, Ironstone House Ironstone Way, Brixworth, Northampton, England, NN6 9UD (“**Memgraph**”, “**we**”, “**us**” and “**our**”).

If you act, or use the Website or the Service, as an individual then “you” or “your” means you. If you act, or use the Website or the Service, on behalf of a company, organisation, or other entity (“**Company**”), then:

- you, as an individual, represent and warrant that you are an authorised representative of that Company with the authority to bind that Company to these Terms, and that you agree to these Terms on that Company’s behalf; and
- “you” or “your” means that Company

BY CLICKING “I ACCEPT”, YOU CONFIRM THAT YOU ACCEPT THESE TERMS AND THAT YOU AGREE TO COMPLY WITH THEM. IF YOU DO NOT AGREE TO THESE TERMS, YOU MUST NOT CLICK “I ACCEPT” AND MUST NOT PLACE AN ORDER FOR, OR ACCESS OR USE, THE SERVICE. THE SERVICE IS FOR BUSINESS USE ONLY.

1 YOUR ACCOUNT

- 1.1 By clicking “I Accept”, you are setting up an account with Memgraph which will enable you to set up and place orders to use the Service (“**Account**”). You will not be able to access or use the Service unless you place an order and we accept that order. See clause 4 below for further information.
- 1.2 Your Account is personal to you and you are not allowed to transfer your Account to any other person.
- 1.3 Each of us and you shall have the right to close your Account by giving the other not less than one (1) month’s prior notice.

2 AUTHORISED USERS

- 2.1 The features within your Account may (where available) permit you to invite your employees and your Affiliates and their employees to use or access your Account and/or the Service as your Authorised Users.
- 2.2 Your Authorised Users will be required to accept certain terms and conditions of use before they may access or use your Account and/or the Service.
- 2.3 You shall be responsible for the acts and omissions of all Authorised Users.

3 SECURITY AND PASSWORDS

- 3.1 You shall, and shall procure that all Authorised Users shall, keep confidential and not disclose to any third party any user identification, password or any other piece of information used in our security procedures (whether chosen by, or allocated to, you or the Authorised User).
- 3.2 We have the right to temporarily disable any user identification code or password, at any time, if in our reasonable opinion you or any Authorised User has failed to comply with any of the provisions of these Terms or we think that any unauthorised person has access to your Account or the Service.
- 3.3 If you or any Authorised User knows, or suspects that anyone other than you or the Authorised User knows, your or their user identification or password, or has used or accessed your Account or the Service, you must promptly notify us by sending an email to: cloud@memgraph.com. You shall be responsible for the acts and omissions of any person who uses or accesses your Account or the

Service using your credentials. Subject to clause 16.1, we and our Affiliates and service providers are not responsible for unauthorized access to your Account or the Service.

4 HOW TO ORDER MEMGRAPH CLOUD

- 4.1 Once you have opened an Account, you may set up and place an order for the Service using the online order page available within your Account ("**Order**").
- 4.2 When you place an Order you may be asked to specify your requirements for the Service on the order page within your Account ("**Order Page**"). Your requirements will impact the charges that you will pay for the Service, details of which will be set out on the Order Page. Before placing an Order you must have set up a valid means of payment via our third party payment processor (see clause 7 below).
- 4.3 By clicking "Create" on the Order Page, you are placing an order for the provision of the Service by us to you in line with the requirements you have selected on the Order Page.
- 4.4 We will inform you after you have clicked "Create" if we reject your Order, which we may do in our absolute direction. If we reject your Order we will not charge you for the Service.
- 4.5 If we do not reject your Order and we grant you access to the Service, then a contract will come into existence between you and us in relation to the Service ordered by you under clause 4.3 which shall be governed by these Terms ("**Service Contract**").

5 SERVICE TERM AND LICENCE

- 5.1 Each Service Contract shall commence when we grant you access to the Service and shall continue in force, subject to earlier termination in accordance with these Terms, until you terminate that Service Contract by clicking "Delete" in relation to that Service within your Account ("**Service Term**").
- 5.2 Termination of one Service Contract will not affect any other Service Contracts that are in force at the date of termination.
- 5.3 In consideration of you paying the Charges (as defined in clause 7) to us in accordance with these Terms, we grant to you a non-exclusive, revocable, non-sublicensable and non-transferable right for you and any Authorised Users to access and use the Service and the Documentation in each case, in accordance with these Terms for the Service Term and for your internal business purposes only.

6 RESTRICTIONS ON USE

- 6.1 You shall not, and shall procure that any Authorised User or third party under your control shall not:
 - (a) permit the sharing of any accounts or individual logins;
 - (b) use the Service other than in accordance with the Documentation;
 - (c) use or attempt to use, or permit, promote or encourage the use of, the Service or Documentation:
 - (i) for any illegal, unlawful, invasive, infringing, threatening, defamatory or fraudulent purpose, or to violate the legal rights of any third party;
 - (ii) for High Risk Activities or to process or store any data that is subject to the US International Traffic in Arms Regulations maintained by the US Department of State;
 - (iii) for the purposes of publishing or otherwise distributing materials which are harmful, offensive, objectionable, defamatory or in breach any third party Intellectual Property Rights or other rights;
 - (iv) in any way which disrupts, restricts or interferes with the provision of the Service by us and/or its availability to, and use by, other users authorised by us, nor intentionally distribute Viruses;
 - (v) to breach or test (whether by probing, scanning or otherwise) the security or integrity of any network, computer or communications system, software application, or network or computing device, including accessing or using any of the foregoing without permission;
 - (vi) to make network connections to any users, hosts, or networks unless you have permission to communicate with them;

- (d) generate, distribute, publish or facilitate unsolicited mass email, promotions, advertisements or other solicitations;
- (e) access all or any part of the Service or Documentation in order to build a product or service which competes with the Service;
- (f) use the Service and/or Documentation to provide services to third parties, nor attempt to obtain, or permit or assist third parties in obtaining, access to the Service and/or Documentation, other than Authorised Users in accordance with clause 5.1 or as provided under this clause 6;
- (g) access or attempt to access any part of the Service which you are not authorised to access and/or to access any data which is held on or accessible via the Service other than Customer Data and any data which is made publicly available by us to all users on or via the Service;
- (h) interfere with the use of the Service, or the equipment used to provide the Service, by customers, authorised resellers, or other authorised users, nor disable, interfere with or circumvent any aspect of the Service; and/or
- (i) reverse engineer, decompile, disassemble, copy, distribute, disseminate, sub-licence, modify, create derivative works from, frame, mirror, republish, download, display, transmit, translate, scan and/or adapt any software or other code or script which forms part of or is accessible via the Service or the Documentation except to the extent permitted by law.

7 CHARGES

- 7.1 In consideration of the supply of the Service, you shall pay to us the charges set out on the Order Page when you submitted the Order for the Service ("**Charges**") in accordance with this clause 7.
- 7.2 The parties acknowledge that the Charges have been calculated on the basis of your requirements set out on the Order Page. If at any time during the provision of the Service we and you agree in writing to a change in those requirements, the Charges will change to such amount as agreed by us and you from the date on which such revised requirements are implemented in the Service.
- 7.3 The Charges may consist of fixed amounts and variable amounts, which may be based on your usage of the Service or other factors. Any Charges for memory that are specified as being payable per calendar month on the Order Page will apply to each calendar month during the Service Term, irrespective of whether or not the Service Term begins or ends during the relevant calendar month.
- 7.4 You must pay the Charges by arranging a payment mandate via our approved third party payment processor (who we may change from time to time). You must ensure that a valid and pre-authorised credit or debit card from an issuer accepted by our payment processor is linked to your Account via our payment processor at all times. Please see our [Privacy Notice](#) for details about how our payment processor will use your personal information to process your payments.
- 7.5 On or following the end of each calendar month, we will issue you an invoice for the Charges payable in respect of that calendar month and you agree that we may take payment for such Charges via our third party payment processor.
- 7.6 The Charges and any other amounts which may become payable from time to time under these Terms are stated exclusive of VAT or any similar local sales tax which, if applicable, shall be payable in addition at the applicable rate in force from time to time.
- 7.7 Without limiting any other right or remedy we may have, if we are unable to successfully use our payment processor to receive your card payment or if you otherwise fail to make any payment due to us under these Terms, in each case by the due date for payment ("**Due Date**"):
 - (a) we shall have the right to charge interest on the overdue amount at the rate of 2% per cent above the then current base lending rate of HSBC Bank plc accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment; and
 - (b) we may delete your Customer Data if you fail to make the payment within fourteen (14) days of the Due Date.

- 7.8 We may increase the Charges under a Service Contract by giving you at least thirty (30) days' prior notice. If you do not agree to the increase, you may terminate the relevant Service Contract in accordance with these Terms.
- 7.9 If you cease to use or access the Service, you shall not be entitled to any refund of Charges paid or relief from any obligation to pay further Charges under these Terms.
- 7.10 Taxes shall not be deducted from any payments to us, except as required by law in which case, you shall increase the amount payable as necessary so that after making all required deductions and withholdings, we receive and retain (free from any withholding or other similar tax liability) an amount equal to the amount we would have received had no such deductions or withholdings been made.
- 7.11 All amounts due under these Terms shall be paid in full without any set-off or counterclaim.

8 WARRANTY, AVAILABILITY AND SUPPORT

- 8.1 We warrant that the Service will conform in all material respects to the Service Description but do not warrant that your access to and use of the Service will be uninterrupted or error free.
- 8.2 If you notify us of any defect or fault in the Service which results in the Service failing to conform in all material respects to the Service Description and such defect or fault does not result from your acts or omissions then we shall, as your exclusive remedy, use reasonable endeavours to resolve that defect or fault as soon as reasonably practicable.
- 8.3 You acknowledge that the Service is not business-critical and accordingly, whilst we shall use reasonable endeavours to ensure that the Service is available for use, we shall not be liable for any period during which the Service is unavailable for access or use including for maintenance, updates or otherwise.
- 8.4 You accept responsibility for the selection of the Service to achieve its intended results and acknowledges that the Service, Documentation and information obtained by you through the Service has not been developed to meet your individual requirements.
- 8.5 You shall be solely responsible for ensuring at your own expense that your IT systems at all times meet the Minimum System Requirements and you shall ensure that at all times you are fully licenced to use any third party software that you use in connection with the Service and that you fully comply with the terms and conditions of all such third party software licences.
- 8.6 Time shall not be of the essence with respect to our performance of the support services under clause 8.2 and/or the achievement of any target dates. Your sole and exclusive remedy for any failure by us to perform such services in accordance with the provisions of these Terms shall be for us to re-perform the non-conforming services as soon as is reasonably practicable.
- 8.7 Except as expressly provided in these Terms, all warranties, representations, conditions and all other terms or conditions of any kind whatsoever implied by statute or common law or otherwise are, to the fullest extent permitted by applicable law, excluded.

9 CHANGES TO THE SERVICE

- 9.1 We may, from time to time, make updates or changes to the Service and/or the Documentation (including to the features, content and/or functionality of the Service) without notifying you or obtaining your consent, provided such updates and changes do not have a material adverse impact on your enjoyment of the Service. If you are unhappy with any update or change that we make, you may, as your sole and exclusive remedy, terminate the Service Contract to which such update or change relates in accordance with these Terms.
- 9.2 We will use our reasonable endeavours to publicise details of any planned material changes to the Service and/or the Documentation no later than seven (7) days before their implementation.

10 YOUR OBLIGATIONS

- 10.1 You shall promptly provide such support, information, co-operation and assistance as we may reasonably request from time to time to assist us with the performance of the support services, the provision of access to the Service and/or any of our other obligations under these Terms.
- 10.2 You shall:
- (a) obtain and shall maintain all necessary licences, consents, and permissions necessary for us, our contractors and agents to perform their obligations under these Terms, including providing

access to the Service and for you to use and enjoy the benefits of these Terms including your use of the Service;

- (b) comply with all applicable laws, regulations and contractual obligations you have to third parties and not put us in breach of any laws or regulations; and
- (c) comply with such additional terms and instructions as we may reasonably notify to you in writing, including in order to meet requirements imposed by our service providers relating to the use of the Service or related equipment.

11 CUSTOMER DATA

- 11.1 You are solely responsible for the accuracy, quality and completeness of the Customer Data.
- 11.2 Without prejudice to clause 6.1 above, you shall not, and shall procure that each Authorised User shall not, access, store, distribute, transmit or otherwise provide to us any Viruses or Unacceptable Content. We reserve the right, without liability or prejudice to our other rights, to remove any material or disable your access to any material that breaches this clause 11.2.
- 11.3 You hereby grant, and warrant on an ongoing basis that you are entitled to grant, to us a non-exclusive, non-transferable, perpetual, irrevocable, royalty-free licence to use, copy, store, process, modify, display, create derivative works and make available the Customer Data for the purposes of discharging our obligations and exercising our rights under these Terms and as we deem necessary to operate, develop, enhance and promote our products and services. We shall own and may use statistics, data, know-how and/or other information relating to your use of the Service to develop, enhance and promote our products and services.
- 11.4 You indemnify us and agree to keep us indemnified from and against any and all liabilities, losses, claims, demands, damages, costs and expenses (including reasonable legal and professional fees) suffered or incurred by us as a result of or in connection with any claim in relation to our use of the Customer Data including that they contain any Unacceptable Content or infringe any third party Intellectual Property Right or other right.
- 11.5 You may make a back-up of your Customer Data using the tools that are available from time to time on the Service. You may also be able to select periodic back-ups of your Customer Data in return for payment of an additional fee where that feature is available on the Service. In the event of any loss or damage to Customer Data, your exclusive remedy against us shall be for us to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by us (if any). However, you acknowledge that we may not retain or have access to a back-up of Customer Data where you have failed to pay us or have otherwise breached these Terms. We shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by us to perform services related to Customer Data maintenance and back-up for which we shall remain fully liable).

12 INTELLECTUAL PROPERTY RIGHTS

- 12.1 We and you acknowledge and agree that, as between us and you, any and all Intellectual Property Rights in and to:
 - (a) the Customer Data belong to you, and any and all rights in the Customer Data not expressly granted to us are reserved to you; and
 - (b) the Memgraph Technology belong to us, and any and all rights in and to the Memgraph Technology not expressly granted to you are reserved to us.
- 12.2 Subject to clause 12.3, we warrant the your use of the Service in accordance with these Terms will not infringe the UK copyright of any third party.
- 12.3 We shall not be liable for any claim or allegation of infringement to the extent that it is attributable to:
 - (a) any software, hardware or Intellectual Property Rights not provided by us;
 - (b) any development of, modification to or maintenance of the Service by or on the behalf of you without our prior written consent;
 - (c) any breach by you of these Terms and/or
 - (d) any other act or omission on the part of the you, an Authorised User and/or any third party not acting on our the behalf.
- 12.4 If any third party makes a claim, or notifies an intention to make a claim against you that may give rise to a liability on our part under clause 12.2 (a "**Claim**"), you will:

- (a) promptly give us written notice of the Claim specifying the nature of the Claim in reasonable detail; and
- (b) at our written request, take such action as we may request (at our expense) to avoid, dispute, compromise, settling or defend the Claim including by: (i) giving us the sole control of the Claim; (ii) not making any admission of liability, agreement or compromise in relation to the Claim without our prior written consent and/or (iii) giving us and our professional advisers reasonable co-operation and access (at reasonable times and on reasonable prior notice) to your premises and officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within your power or control, so as to enable us and our professional advisers to examine them and to take copies (at our expense) for the purpose of assessing, avoiding, disputing, compromising, settling or defending the Claim.

12.5 If any third party claim or allegation of infringement in relation to the Service is made, or in our reasonable opinion is likely to be made, against you, we may at our sole option and expense:

- (a) procure the right for you to continue using the Service in accordance with these Terms;
- (b) modify the Service so that they cease to be infringing; or
- (c) terminate any or all Service Contracts and/or close your Account immediately by notice in writing to you and refund any Charges you have paid in advance with respect to any unexpired Service Terms.

12.6 This clause 12 constitutes the your exclusive remedy and our only liability in respect of any claim or allegation that the Service infringes the Intellectual Property Rights of any third party.

13 DATA PROTECTION

13.1 Defined words and expressions used in this clause 13 which are not defined elsewhere in these Terms shall have the meanings as provided for under the Data Protection Legislation.

13.2 You will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, your obligations or rights under the Data Protection Legislation.

13.3 You and we acknowledge that:

- (a) if we process any personal data on your behalf when performing our obligations under these Terms, you are the controller and we are the processor for the purposes of the Data Protection Legislation.
- (b) the nature and purpose of processing by us, the duration of the processing and the types of personal data and categories of data subject are as follows:

Nature and purpose of processing:	<i>To provide the Service to you which may include storage and computation and to develop and enhance the Service</i>
Duration of processing:	<i>The duration of the Service Contract until we delete the personal data in accordance with these Terms</i>
Types of personal data:	<i>Data relating to individuals which are provided to us by you or your Authorised Users via the Service</i>
Categories of data subject:	<i>Individuals about whom data is provided to us by you or your Authorised Users via the Service</i>

- (c) the personal data may be transferred or stored outside the EEA or the country where you, your Affiliates or your Authorised Users are located in order to carry out the Service and our other obligations under these Terms.

13.4 Without prejudice to the generality of clause 13.2, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to us for the duration and purposes of each Service Contract so that we may lawfully use, process and transfer the personal data in accordance with these Terms on your behalf.

13.5 Without prejudice to the generality of clause 13.2, we shall, in relation to any personal data we process in connection with the performance of our obligations under these Terms:

- (a) process that personal data only on your the documented written instructions unless we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us and/or Domestic UK Law (where Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK) to process personal data (“**Applicable Laws**”). Where we are relying on Applicable Laws as the basis for processing personal data, we shall promptly notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the us from so notifying you;
- (b) not transfer any personal data from the location that you select on the Order Page for storage of your Customer Data to outside the European Economic Area, the United Kingdom and those territories in respect of which the European Commission has made a positive finding of adequacy of the protection of personal data, unless:
 - (i) you have, or we have, provided appropriate safeguards in relation to the transfer as required under Article 46 of the GDPR; or
 - (ii) any other mechanism, solution or means that enables the lawful transfer of personal data to a third country in accordance with Article 45 or 46 of the GDPR;
- (c) assist you, at your cost, in responding to any request from a data subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (d) notify you without undue delay on becoming aware of a personal data breach;
- (e) upon your written request and reasonable cost, we shall permit you to audit our systems that we use to process personal data of which you are the data controller as necessary to assess our compliance with clauses 13.5 and 13.6. This right is limited to one occasion per calendar year (regardless of the number of Service Contracts in force) and is subject to us and you agreeing the scope, date, time and duration and any security and confidentiality controls applicable to any audit in advance; and
- (f) maintain complete and accurate records and information to demonstrate our compliance with this clause 13 and immediately inform you if, in our opinion, an instruction infringes the Data Protection Legislation.

13.6 We and you shall each ensure that we and you (as applicable) have in place appropriate technical and organisational measures, reviewed and approved by the other, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected.

13.7 You acknowledge that we have appointed certain third parties as processors before the commencement of the Service and consent to our use of those third parties as sub-processors of personal data under these Terms. We may add or replace sub-processors from time to time provided that we shall notify you in writing in advance of any such change and unless you send written notification to us within three (3) days of our notification, setting out your objection to any new sub-processor, you will be deemed to have consented to the appointment of such sub-processor. We confirm that we have entered or (as the case may be) will enter with the third-party processors into a written agreement substantially on that third party’s standard terms of business and, in either case, which we confirm reflect and will continue to reflect the requirements of the Data Protection Legislation. As between you and us, we shall remain fully liable for all acts or omissions of any third-party processor appointed by us pursuant to this clause 13.7.

14 TERMINATION

14.1 We may terminate any or all Service Contracts by giving you not less than fourteen (14) days’ prior notice.

14.2 We may terminate any or all Service Contracts and/or close your Account with immediate effect by giving you written notice if you:

- (a) commit a material breach of these Terms and, in the case of any remediable breach, fail to remedy the breach in question within fourteen (14) days of receipt of notice from us;
- (b) fail to pay any Charges within fourteen (14) days of their due date; or
- (c) become bankrupt or go into liquidation (whether voluntary or compulsory), become insolvent, are dissolved, compound with you creditors or have a receiver, administrative receiver or administrator appointed over the whole or any part of your assets or a petition is presented, or a meeting is convened for the purpose of considering a resolution, for the making of an administrative order, the winding-up, bankruptcy or dissolution of you or you suffer any similar process in any jurisdiction outside of England and Wales.

14.3 Upon termination or expiry of a Service Contract for any reason:

- (a) save as set out in clause 14.3(c) below, all rights granted to you under these Terms in respect of that Service Contract shall cease and you shall cease all use of and access to the Service and Documentation and all other activities authorised under these Terms in respect of that Service Contract and shall procure that all users cease such use and access;
- (b) we shall be entitled to charge, and you shall immediately pay to us, any sums due or accrued to us from you under these Terms (including any Charges) which are unpaid; and
- (c) you shall be entitled to access your Customer Data until its deletion pursuant to clause 7.7, 14.4 or 14.5 (as applicable) provided that your Account has not been closed or suspended.

14.4 Subject to clause 7.7, if we terminate a Service Contract for any reason then we may delete all Customer Data including, without limitation, all back-ups of Customer Data at any time from fourteen (14) days after the date of termination.

14.5 Subject to clause 7.7, if you terminate a Service Contract for any reason then we may delete all Customer Data including, without limitation, all back-ups of Customer Data at any time from fourteen (14) days after the date of termination.

14.6 Upon closure of your Account for any reason, all active Service Contracts and these Terms, subject to clause 14.7 below, will automatically terminate.

14.7 Termination or expiry of a Service Contract or closure of your Account or termination of these Terms on whatever basis shall be without prejudice to any rights or obligations of us or you which have accrued prior to the date of termination or expiry or closure (as applicable) and shall not affect the continuing in or coming into force of any provision of these Terms which, whether expressly or by implication, is to continue in or come into force following the date of termination or expiry or closure (as applicable).

15 SUSPENSION

15.1 Without limiting any other rights or remedies we may have, we shall be entitled to suspend, without liability, all or part of your right of access to and use of the Service and/or Documentation without notice if:

- (a) you breach any of these Terms, including, without fail to pay any Charges by their due date;
- (b) we believe your use of the Service or the use of the Service by any Authorised User could adversely impact the Service, other clients' or their end users' use of the Service, or the network or servers used to provide the Service or that we are required to suspend immediately to comply with applicable law;
- (c) there is actual or suspected unauthorized third-party access to the Service; or
- (d) for repair, maintenance or upgrade to the Service and shall endeavour to give you reasonable notice of any suspension for such purposes.

16 LIABILITY

16.1 Nothing in these Terms limits or excludes our liability or your liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) any other liability which cannot be lawfully limited or excluded.

- 16.2 We shall not be liable or responsible to you, whether in tort (including negligence), contract, misrepresentation, restitution, for breach of statute or otherwise for:
- (a) any loss of revenue, data, business, contracts, anticipated savings or profits, any loss of use of facilities, or loss or damage to reputation or goodwill (in each case, whether direct or indirect); or
 - (b) any special, indirect or consequential loss or damage.
- 16.3 Subject to clause 16.1, our total aggregate liability to you, whether in tort (including negligence), contract, misrepresentation, restitution, for breach of statute or otherwise under or in connection with each Service Contract in each calendar year shall not exceed the greater of:
- (a) a sum equal to the value of the Charges (whether paid or payable) in respect of that Service Contract in the calendar year in question; and
 - (b) one thousand (£1,000) pounds sterling.
- 16.4 You are responsible for, and we shall have no liability in respect of, any decision that you or any other person makes based on information, data, conclusions or recommendations accessed via or made available using the Service.
- 16.5 We and you shall not be liable to the other for any failure or delay in complying with our obligations under these Terms where such delay or failure is reasonably attributable to an event of Force Majeure.

17 CONFIDENTIALITY

- 17.1 Subject to clauses 17.2 and 17.3, you and we shall each, during the term of these Terms and thereafter:
- (a) keep confidential all information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other and which relates to the other or any of its Affiliates, which includes, in the case of us, the Memgraph Technology (“**Confidential Information**”) and not without the prior written consent of the other disclose any Confidential Information to any third party unless that information is: (i) public knowledge; (ii) already known to you or us (as applicable) at the time of disclosure; (iii) subsequently becomes public knowledge other than by breach of these Terms, or (iv) subsequently comes lawfully into the possession of you or us (as applicable) from a third party; and
 - (b) not use any Confidential Information for any purpose other than the proper implementation of these Terms.
- 17.2 We and you may each disclose Confidential Information:
- (a) to our respective Affiliates, professional advisors, suppliers and employees as necessary for the purposes and otherwise as contemplated in these Terms subject to us or you (as applicable) first informing the person in question that the Confidential Information is confidential and requiring the person in question to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; or
 - (b) as may be required by any law or any legal or regulatory authority.
- 17.3 We may disclose Customer Data to our actual and potential suppliers for the purposes of providing the Service and otherwise fulfilling our obligations and exercising our rights under these Terms.

18 CHANGES TO THESE TERMS

- 18.1 We recommend that you print a copy of these Terms for future reference. We may amend these Terms from time to time by sending you an email to the email address registered in your Account or by posting the modified terms in your Account. Subject to the foregoing, if you continue to use the Service after we have amended these Terms you shall be deemed to have accepted and agreed to the amended Terms. Any other variations to these Terms must be made in writing and signed by each of you and us.
- 18.2 These terms were most recently updated on March 12th 2020 and historic versions can be obtained by contacting us.

19 OTHER APPLICABLE TERMS

The following additional terms and conditions also apply to your use of this Website, your Account and the Service:

- (a) Our [Website Terms of Use](#), which set out the basis on which we make our Website available to you.
- (b) Our [Privacy Notice](#), which sets out how we will use your personal information.
- (c) Our [Cookie Policy](#), which sets out information about the cookies on our site and our applications.

20 NOTICES

- 20.1 Any notices to be served by us or you on the other shall be in writing and in English. We may serve notice on you by sending an email to the email address registered in your Account or by posting on your Account. To serve notice on us you shall send an email to cloud@memgraph.com or use pre-paid registered post to our registered address as set out in the first line of these Terms or such other address as is made available by us from time to time including by posting a change on our Website. Please ensure that you include your e-mail address with all correspondence.
- 20.2 Notices correctly served in accordance with clause 20.1 shall be deemed to have been received: (a) immediately upon receipt in the case of email or posting on your Account and (b) the second business day after posting in the case of registered post.

21 GENERAL

- 21.1 We and you are independent contractors and nothing in these Terms and no actions taken by either us or you shall be deemed to constitute any agency, partnership, association, joint venture or other co-operative enterprise between us and you.
- 21.2 These Terms together with any documents referred to or incorporated into these Terms represent the entire agreement between us and you relating to their subject matter and supersede all previous presentations made and/or agreements, negotiations and discussions between us and you relating to the same.
- 21.3 You may not sub-licence, assign, transfer, novate, charge or sub-contract the performance of any of your rights and/or obligations under these Terms without our prior written consent.
- 21.4 We may at any time sub-licence, assign, transfer, novate, charge or sub-contract the performance of any of our rights and/or obligations under these Terms.
- 21.5 If any provision of these Terms is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.
- 21.6 The failure to exercise or delay in exercising any right or remedy under these Terms shall not be regarded as a waiver of such right or remedy, or a waiver of other rights or remedies. No single or partial exercise of any right or remedy under these Terms shall prevent any further exercise of the right or remedy or any other right or remedy.
- 21.7 Save only as may be specifically provided for otherwise in these Terms, any right or remedy available under these Terms is not exclusive and the exercise of any right or remedy shall be without prejudice to the exercise of any other right or remedy which may be available whether under these Terms and/or as a matter of general law.
- 21.8 No other person other than you and us shall have any rights to enforce any of these terms and conditions.
- 21.9 These Terms and any dispute or claim arising out of or in connection them or their subject matter or formation (including any non-contractual disputes or claims) shall be governed by English law and, save in respect of the enforcement of any judgment, we and you agree to submit to the exclusive jurisdiction of the English courts.

22 DEFINITIONS AND INTERPRETATION

- 22.1 In these Terms the following words have the following meanings:

Affiliate	means any person that directly or indirectly Controls, is Controlled by, or is under common Control with another person.
Authorised User	means your employees and your Affiliates and their employees who are authorised to use or access the Service under these Terms.
Contract Year	means each period of twelve (12) consecutive months beginning on the commencement of the Service Term and each anniversary of the commencement of the Service Term.
Control	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and Controls and Controlled shall be construed accordingly.
Customer Data	means: (a) all information, data, content and materials provided by you and/or any Authorised User which are uploaded to or inputted into the Service and (b) all data and documents derived from the foregoing that are generated by the Service and are provided to you as part of the Service, but excluding, in each case, any Memgraph Technology.
Data Protection Legislation	means all applicable laws which govern the use of data relating to identified or identifiable individuals, including, where relevant the Data Protection Act 2018 and the GDPR.
Documentation	means the user guides for the Service located on the Website as may be updated from time to time.
Force Majeure	means any circumstance beyond the control of a party including any act of God, war, riot, explosion, abnormal, unusual or extreme weather conditions, loss of utilities, fire, flood, failure or breakdown of utility service, transport or telecommunications systems or network infrastructure, malicious attack or damage, strike, lock out or industrial dispute, fuel shortages, governmental or regulatory authority action, default of a supplier or sub-contractors accident and/or breakdown of plant or machinery.
GDPR	means General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.
High Risk Activities	means activities where the use or failure of the Service or Documentation could lead to death, personal injury, or environmental damage including operation of nuclear facilities, air traffic control, life support systems, or weaponry.
Intellectual Property Rights	patents, trade marks, service marks, trade names, registered and unregistered designs, trade or business names, copyright (including rights in software), database rights, design rights, rights in confidential information and any other intellectual property rights whatsoever irrespective of whether such intellectual property rights have been registered or not which may subsist in any part of the world.

Memgraph Technology	means all methods, methodologies, products, documentation, records, diagrams, reports, processes, tools, algorithms, user interfaces, techniques, databases, templates, know-how, technology, hardware, software, designs and other tangible or intangible technical material, and other information, content and materials owned by us or licensed by us from a third party (whether or not conceived, reduced to practice or developed outside the scope of these Terms and/or prior to and/or during a Service Contract) comprised within Memgraph Cloud, the Service, Documentation or otherwise utilised by us in the performance of these Terms and any and all updates, modifications, enhancements and improvements to the foregoing.
Minimum System Requirements	means the minimum requirements for hardware and third party software (including web browsers) which you must have in place in order to access and make use of the Service as set out on the Website and as may be updated by us from time to time.
Service Description	means the description of the Service as set out on the Website, as updated from time to time.
Unacceptable Content	means material or content that: is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or is otherwise illegal or causes damage or injury to any person or property.
Viruses	means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
Website	means the website available at www.memgraph.com , as updated from time to time.

22.2 In these Terms:

- (a) headings are for convenience only and shall not affect construction or interpretation and references to clauses are to the clauses of these terms and conditions;
- (b) words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- (c) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

- (d) a reference to “writing” or “written” includes any method of reproducing words in a legible form (including email).
- (e) any reference to any law, statute, statutory provision, statutory instrument, directive, subordinate legislation, code of practice or guideline shall be construed as a reference to the same as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time; and
- (f) use of words such as “include”, “including” and “in particular” shall not limit the generality of any preceding or following words which are not intended to be exhaustive.