

Scylla Cloud Terms of Service

Last updated: March 31, 2020

These Terms of Service (the “**Terms**”) govern customer’s relationship with ScyllaDB Inc. its parent company, its subsidiaries and affiliates (collectively “**ScyllaDB**” or “**we**”) and set forth the terms and conditions under which ScyllaDB makes available ScyllaDB’s Database as a Service (DBaaS) (“**Services**”) to each customer (the “**Customer**” or “**you**”) accessing or using the Services. The Terms are effective as of the date Customer signifies consent and acceptance of these terms by checking the “I accept the Terms of Service and Privacy Policy” box and clicking on the ‘Sign Up’ button (the “**Effective Date**”). ScyllaDB may modify the Terms to be posted within the ScyllaDB Cloud Website (as defined below) or the Services from time to time, we recommend that you periodically review the Terms, to see if any changes were introduced as reflected in the “last updated” date hereinabove. The revised Terms will be effective when posted.

1. SERVICES

1.1. Customer agrees to follow and be bound by the Terms. The natural person entering into these Terms hereby agrees that if he or she is entering into these Terms on behalf of a legal entity, and not as a natural person then such person represents and warrants that he or she: (i) have full legal authority to bind Customer to the Terms; (ii) have read and

understand the Terms; and (iii) agrees, on behalf of Customer, to the Terms. If the said natural person does not have the legal authority to bind Customer, or if Customer does not accept the Terms, then the Customer may not use the Services.

1.2. Subject to the terms and conditions of these Terms, ScyllaDB shall provide Customer the Services during such Subscription Term (as defined below).

1.3. ScyllaDB provides support services to customers wishing to use our expert support services in connection with their use of Services. The service level agreement we currently offer with respect to the Services is available at: [Scylla Cloud Service Level Agreement](#) and the ScyllaDB Support Policy, available at: [ScyllaDB Support Policy](#) (collectively, the “SLA”), which is incorporated hereto by reference.

1.4. ScyllaDB shall exert best commercial efforts to provide you with the Services in accordance with the Terms. However, ScyllaDB reserves the right to suspend Customer’s access to the Services:

1.4.1. For scheduled maintenance where ScyllaDB shall provide the Customer with 30 days prior notice of such scheduled maintenance or for unscheduled maintenance where ScyllaDB shall provide the Customer with a notice as soon as practicable under the relevant circumstances. ScyllaDB shall exert best commercial efforts to ensure that any suspension of Services in accordance with this provision shall be limited to the minimal duration required; or or

1.4.2. In the event Customer is in breach of the Terms, (including, among others, breach of Use Restrictions or failure to pay the Fees). Nothing in this Section 1.4.2. shall limit ScyllaDB's rights to terminate the Services in accordance with Section 12, due to and upon breach by the Customer.

1.5. Customer acknowledges and agrees that ScyllaDB is using the services and/or products of third party partners or service providers to facilitate provisioning the Services to you. As such, certain warranties and obligations, including, but not limited to, with respect to the availability of the Services and SLA, shall be limited to the same warranties as are extended to ScyllaDB by such third-party partners and/or sub-contractors.

2. REGISTRATION

2.1. In order to use the Services, Customer will be required to register within the ScyllaDB Cloud Website or Services, and provide certain information, including, but not limited to, contact person's name, email, address, form of payment acceptable to ScyllaDB (in its sole discretion) and billing information and other information required to perform the Services. Please note that while you are not obligated to provide ScyllaDB with any personal details, without certain information some or all of the Services may not be available to you.

2.2. If Customer wishes to use the Services it must provide all information as requested by ScyllaDB in the registration process, and Customer represents and warrants that all such information shall be

accurate and complete. Customer shall keep such information up-to-date.

2.3. Customer agrees not to share its password(s), account information, or access to the Services with any other person. Customer is responsible for all activities that occur under your account, regardless of whether undertaken by you, your employees or a third party (including contractors or agents) and ScyllaDB and our affiliates are not responsible for unauthorized access to your account. Customer will contact us immediately if it believes an unauthorized third party may be using its account or if your account information is hacked, lost or stolen.

2.4. In the event that Customer has provided materially inaccurate, fraudulent or incorrect information in connection with the Services, ScyllaDB shall be entitled to suspend Customer's access to the Services by way of written notice to Customer, and, if Customer fails to correct such breach within 7 days, then ScyllaDB may suspend the Customer account from using the Services for 30 days ("**Suspension Period**"). If Customer fails to correct such breach within the Suspension Period, then ScyllaDB shall the right to delete any part of or all of Customer Data (as defined below) held by ScyllaDB without any liability of any kind, and ScyllaDB shall have no obligation to reimburse or compensate Customer in connection with such deletion.

3. CUSTOMER'S DATA

3.1. Customer agrees that it will only upload, share, use, or otherwise make available on or through the ScyllaDB Cloud Website and/or

Services information, data or any other content (“**Customer Data**”) that Customer has the right and authority to share and for which it has the right and authority to grant to ScyllaDB all of the licenses and rights set forth hereunder. By uploading, sharing or using the Customer Data, Customer grant ScyllaDB a worldwide, limited, royalty-free, non-exclusive, sub-licensable license to use, reproduce, modify, adapt, publicly display, and transmit the Customer Data, all solely for the purpose of carrying out the Services in accordance with the Terms (“**Customer Data License**”).

3.2. In connection with the Services Customer hereby warrants and represents that it shall not upload, share, use or provide ScyllaDB any Customer Data which is: (a) infringing on a third party’s privacy or includes, copies or transmits another’s confidential, sensitive or personal information not in accordance with applicable law or the DPA; (b) illegal, harmful, fraudulent, infringing third party rights, including intellectual property rights; (c) constitutes patient, medical or other information related to an individual’s physical or mental health, or the provision of or payment for health care, whether that information is regulated by the Health Insurance Portability and Accountability Act, as amended and supplemented, and the regulations thereunder (collectively, “**HIPAA**”), or any similar federal, state, or local laws, rules, or regulations, unless Customer has signed a Business Associate Agreement (as defined by HIPAA) with ScyllaDB; (d) is unauthorized, or for which you do not have the right and authority to share and/or grant the necessary rights and licenses for; (e) contains harmful code or any other malicious program; or (f) violating or promotes the violation of any applicable laws or regulations.

3.3. Customer agrees that while ScyllaDB will exert reasonable commercial efforts to maintain an up to date back-up of the Customer Data, ScyllaDB does not guarantee that we will hold the latest version at the time of technical failure or data corruption. In such event of technical failure or data corruption, ScyllaDB shall work towards restoring such Customer Data from the last known good archival version of the Customer Data which ScyllaDB possess.

3.4. Except for willful misconduct or fraud, ScyllaDB shall not be liable for any technical failure or data corruption except as and to the extent caused directly due to ScyllaDB's willful misconduct.

3.5. Without derogating from the foregoing, ScyllaDB has no obligation to monitor the Services or screen any portion of Customer Data that is shared on or through the Services. However, ScyllaDB reserves the right to review the Services and Customer Data and to monitor all use of and activity on the Services, and to remove or choose not to make available on or through the Services any Customer Data in its sole discretion. ScyllaDB may remove Customer Data that is violates Section 3.2 above, after giving notice to the Customer, and giving the Customer 24 hours to resolve the issue, unless prohibited by applicable law, rule, regulation or court order.

4. GRANT OF LICENSE

4.1. Subject to and conditioned upon compliance with the terms and conditions hereunder, ScyllaDB grants Customer a non-exclusive, non-transferable, non-sublicensable, revocable, limited right to access

and use the Services for the Subscription Term, for internal business purposes of Customer (the “**Cloud License**”). For the purpose of the Terms, the Subscription Term shall mean the period detailed in the applicable part of the ScyllaDB Cloud Website until termination of the Services in accordance with the Terms.

4.2. Use Restrictions. Customer hereby represents and warrants that it shall not: (a) copy the ScyllaDB Cloud Website or Services or any portion thereof; (b) deny service to, hack, crack, reverse engineer, disassemble, or decompile the ScyllaDB Cloud Website or Services in any form or by any means; (c) modify or create derivative works of the Services; (d) attempt to circumvent or overcome any technological protection measures intended to restrict access to any portion of the ScyllaDB Cloud Website or Services or any software thereto incorporated; (e) use the Services for any illegal or unauthorized purpose, or in a manner which infringes third parties’ rights in any way, including intellectual property rights; (f) incorporate the Services into the structure, machinery or controls of any aircraft, other aerial device, military vehicle, hovercraft, waterborne craft or any medical equipment; or (g) distribute, sell, sublicense or otherwise transfer or provide access to the ScyllaDB Cloud Website or Services to any third party, including, without limitation, provision of database management services through the Services.

5. INTELLECTUAL PROPERTY RIGHTS

5.1. ScyllaDB retains exclusive ownership of all rights, interests and title in the Services and any part thereof and Customer acknowledges that all

rights, title and interest in and to the Services and any and all trademarks, trade names, copyrights, patents, patentable inventions, and any and all other intellectual property rights used or embodied in or in connection therewith, are and shall remain in the exclusive property of ScyllaDB, subject only to the rights and licenses expressly granted by ScyllaDB hereunder. Customer shall make no claim of right to any Services to be supplied by ScyllaDB hereunder and acknowledges that as between ScyllaDB and Customer, such Services are proprietary to ScyllaDB.

5.2. Customer hereby agrees that ScyllaDB shall be free to use for any purpose whatsoever any ideas, concepts, know-how, or techniques contained in any communications Customer sends to ScyllaDB, including, but not limited to, feedback, comments, suggestions, and the like, including, but not limited to, for the development, production and marketing of products and services that incorporate such information, without compensation to Customer, provided that the foregoing shall not include any Customer confidential information. Without derogating from the above, it is hereby clarified that all rights, title and interests in and to any feedback, suggestions, ideas or other inputs that Customer provides us in connection with the Services (the “**Feedback**”) shall vest solely with ScyllaDB, and will be owned exclusively by ScyllaDB (and the Feedback is hereby irrevocably assigned to ScyllaDB, to the extent necessary to reflect the above).

6. ORDERS, PAYMENT TERMS AND TAXES

6.1. Customer agrees that all credit card orders made via the Services are subject to the terms and conditions of the Terms. All credit card orders are non-refundable and non-cancellable except as expressly provided in the Terms.

6.2. Customer's use of the Services is subject to the full and timely payment of fees identified on the ScyllaDB Cloud Website interface and/or Services that are applicable to the specific Service selected by Customer (the "Fees").

6.3. Fees will be calculated and billed based on the specific terms as set forth in the applicable price list shown in the ScyllaDB Cloud Website available at: [Scylla Cloud Pricing](#) (the "**Pricing**"). Without derogating from the foregoing, all Fees shall be billed immediately following the issuance of an invoice by Scylla. You hereby authorize us to charge the Fees to your applicable method of payment (e.g., the Credit Card which has been provided at registration), which may include charges with respect to applicable Taxes (as defined below) all as indicated within the ScyllaDB Cloud Website.

6.4. Section 2.4 above notwithstanding, if your billing information and the payment source you have provided while registering for the Services is invalid, if charges billed to you are declined or not paid or if you fail to pay the fees when due, ScyllaDB may suspend the Customer from using the Services and may take any action ScyllaDB deems appropriate in order to reduce its costs and damages, including, but not limited to the modification of Customer Data to 'read only' or transferring Customer

Data to archive or backup servers. If Customer does not rectify the failure to make timely payments within reasonable time, then ScyllaDB shall be entitled to delete such Customer Data without any liability of any kind to Customer, and ScyllaDB shall have no obligation to reimburse or compensate Customer in connection with such deletion.

6.5. The Pricing may include estimated variable costs related, for example, to network and backup. The Customer will be charged based on actual usage, which may be higher than such estimations. Furthermore, fees may include additional fees based on any usage that exceeds the processing and storage capacity purchased by the Customer, which shall be charged at the then-applicable On-Demand Hourly Prices.

6.6. Taxes. All Pricing reflects the net amounts payable to ScyllaDB and are exclusive of all federal, state and local excise, sales, use, value-added, occupational, levies, assessments, import duties and like taxes which may be imposed by any governmental entity in connection with any transaction contemplated by the Terms (excluding any taxes assessed against ScyllaDB's net income). It is hereby clarified that Customer shall be fully responsible to pay any indirect taxes, including, among others, sales, use, value-added, levies, or any other taxes which may be imposed in connection to the Terms, even if not stated in the relevant invoice (excluding any taxes assessed against ScyllaDB's net income) and Customer shall not be entitled to withhold or deduct any such taxes from the consideration. For the avoidance of doubt, all payments to be made by Customer under the Terms shall be made net of

deduction and withholding for any Taxes of whatever nature now or hereafter imposed. If Customer is required by law to make any deduction or withholding from any Fees payable under the Terms, the Fees payable to ScyllaDB shall be a sum after netting off such deduction and/or withholding taxes paid to the relevant government or tax authority.

6.7. ScyllaDB may use a third-party credit card processing service to process the Fees, and may change its third-party credit card processing service from time to time. If applicable to Customer, then Customer consents to the use of such service and to the transfer of Customer's credit card details to such third-party processor. In the case that ScyllaDB switches to another credit card processor, the Customer may be required to update billing details manually. Customer agrees to be bound by any separate terms applicable to the processing service. The Fees will be charged to the Customer's credit card automatically.

6.8. Late Payments; Suspension. Late payments may bear interest at the rate of 1.5% per month (or the highest rate permitted by applicable law, if less) from the payment due date until paid in full. Customer will be responsible for all expenses (including reasonable attorneys' fees) incurred by ScyllaDB in collecting such late payments amounts. If Customer does not remit timely payment for the Services, ScyllaDB may suspend the Services in accordance with Section 1.3.2. or terminate Services, for breach pursuant to Section 11.2.

6.9. Refunds. Except in the event of termination of the Services due to a material breach by ScyllaDB or as set forth in Section 11.2 below, no refund – full, partial or pro-rated – shall be provided.

6.10. In the event of termination of the Services due to a material breach by ScyllaDB or as set forth in Section 11.2 below, ScyllaDB shall refund unused fees paid for such Software or Services by Customer and which are attributable to ScyllaDB. Notwithstanding anything to the contrary hereunder, it is clarified that out-of-pocket expenses incurred or committed by ScyllaDB with respect to third party vendors or service providers of ScyllaDB (e.g., AWS) shall not be refundable, and the Customer irrevocably undertakes to pay such expenses, regardless of the nature or timing of the applicable termination of Services.

7. CONFIDENTIAL INFORMATION

7.1. During the term of the Services and thereafter, the parties (i) shall treat as confidential and proprietary all information which is identified as confidential or proprietary, or which can be reasonably deemed to be such, and which is disclosed by one party to the other; (ii) shall not disclose such information to any third party, except for such party's employees and consultants which have a specific need to know such information for the purpose of the Terms and only if such employees or consultants executed a confidentiality agreement protecting such information by terms no less stringent than those contained in this Section. The foregoing shall not apply to any information that the party receiving such information can prove by reasonable written and dated

records: (a) is already in the party's possession, prior to the disclosure thereof, other than as a result of the breach of a legal or contractual obligation on the part of the receiving party; (b) was lawfully received by such party from a third party having rights to disclose, and under no confidentiality obligations known to such party with respect to such information; (c) is or becomes a part of the public knowledge through no wrongful act of receiving party; (d) is approved for release in writing by the party to whom the confidential or proprietary information belongs; or (e) is or was developed independently by the receiving party without reliance on, reference to or use of any information of the other party, and without any breach of the Terms, as evidenced by contemporaneous written documents.

7.2. Any breach or threatened breach of this Section may cause irreparable harm to the disclosing party for which there is no adequate remedy at law. Therefore, the disclosing party will be entitled to seek injunctive relief without the necessity of proving actual damages or posting a bond, in addition to any other remedies available at law.

8. WARRANTY AND DISCLAIMERS

8.1. ScyllaDB and Customer each represent and warrant that they have the right, power, and authority to enter into the Terms and perform their respective obligations hereunder.

8.2. EXCEPT AS OTHERWISE EXPLICITLY STATED HEREUNDER, CUSTOMER AGREES THAT SCYLLADB HAS MADE NO EXPRESS OR IMPLIED WARRANTIES TO IT REGARDING THE SERVICES AND THAT

THE SERVICES ARE BEING PROVIDED TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND. SCYLLADB DISCLAIMS ALL WARRANTIES WITH REGARD TO THE SERVICES; EXPRESS OR IMPLIED; INCLUDING; WITHOUT LIMITATION; ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE; BE TIMELY OR SECURE, MERCHANTABILITY; QUALITY OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. SCYLLADB DOES NOT WARRANT THAT THE SERVICES WILL OPERATE UNINTERRUPTED OR ERROR FREE, OR THAT ALL ERRORS WILL BE CORRECTED, EXCEPT AS EXPRESSLY PROVIDED HEREUNDER.

8.3. FURTHERMORE, SCYLLADB MAKES NO WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE SERVICES HAVE BEEN AND WILL EXCEPT FOR SCYLLADB'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, ASSUMES NO RESPONSIBILITY OR LIABILITY FOR ANY: (I) UNAUTHORIZED ACCESS TO OR USE OF OUR SERVERS AND/OR ANY AND ALL CUSTOMER DATA STORED THEREIN; (II) INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICES; (III) BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH THE SERVICES THROUGH THE ACTIONS OF ANY THIRD PARTY; (VI) LOSS OF CUSTOMER DATA FROM THE SERVICES, OR (VII) CONSEQUENCES RELATED TO RESTRICTIONS, SUSPENSION OR TERMINATION OF THE SERVICES AS PERMITTED UNDER THE TERMS OR AS RELATED TO THIRD PARTY PROVIDERS; CUSTOMER WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF SCYLLADB TO ANY THIRD PARTY. SINCE SOME STATES AND JURISDICTIONS DO NOT

ALLOW LIMITATIONS ON IMPLIED WARRANTIES, THE FOREGOING LIMITATIONS MAY NOT APPLY TO YOU. IN THAT EVENT, SUCH WARRANTIES ARE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY, AND FOR THE MINIMUM WARRANTY PERIOD ALLOWED BY THE MANDATORY APPLICABLE LAW.

8.4. Except as expressly set forth in the Documentation, ScyllaDB represents and warrants that to its knowledge none of the Services contain any “Trojan horse”, “worm”, “trap door”, “malware” (as such terms are commonly understood in the computer software industry), or any other device or code designed to destroy, copy, collect or expose data or files without the knowledge and consent of the Customer, or otherwise designed to disrupt, damage, disable, impair or interfere with use of the computer on which such code resides or the other software programs on such computer.

9. INDEMNIFICATION

9.1. Customer will defend and indemnify ScyllaDB from and against any third-party claim, demand, damages or lawsuit arising out of or relating to (a) Customer’s breach of the Terms; (b) Customer’s violation of applicable laws or regulations in connection with the Services; or (c) Customer Data or the combination of the Customer Data with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third-party rights by the Customer Data, and Customer will pay such damages or costs as are attributable to any such action. ScyllaDB will promptly notify Customer of any claim

subject to this Section, but ScyllaDB's failure to promptly notify Customer will affect Customer obligations only to the extent that ScyllaDB's failure prejudices the Customer's ability to defend the claim. Customer may: (a) use counsel of its own choosing (subject to ScyllaDB's written consent) to defend against any claim; and (b) settle the claim, provided that Customer obtain ScyllaDB's prior written consent before entering into any settlement.

9.2. ScyllaDB will defend and indemnify Customer and its affiliates against any third-party claim, demand, damages or lawsuit arising out of or relating to (a) violation of applicable laws or regulations caused directly by the Services; or (b) infringement or misappropriation of a third party's patent, copyright, trade secret, or trademark caused directly by the Services, provided that the Services were used in accordance with the Terms and that such infringement or misappropriation is not due to a combination of the Services with any other content, products or services which are not provided by ScyllaDB.

10. LIMITATION OF LIABILITY

10.1. TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAW AND OTHER THAN IN CONNECTION WITH SCYLLADB'S WILLFUL MISCONDUCT OR FRAUD, IN NO EVENT WILL SCYLLADB BE LIABLE TO CUSTOMER FOR ANY LOSS OF USE; LOSS OF DATA, INTERRUPTION OF BUSINESS; OR ANY INDIRECT; SPECIAL; INCIDENTAL; OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT;

TORT (INCLUDING NEGLIGENCE); STRICT PRODUCT LIABILITY OR OTHERWISE; EVEN IF SCYLLADB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2. SCYLLADB SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR CORRUPTION OF ANY DATA, INFORMATION OR CONTENT UNDER ANY CIRCUMSTANCES OR for ANY CONSEQUENCES RELATED TO CHANGES, RESTRICTIONS, SUSPENSIONS, OR TERMINATION OF THE SERVICES OR THE TERMS. THESE LIMITATIONS WILL APPLY TO CUSTOMER EVEN IF THE REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

10.3. Other than in connection with ScyllaDB's willful misconduct or fraud, in no event shall the total cumulative liability of ScyllaDB, for all claims arising out of or relating to the Terms, exceed the lower of: (i) total amounts actually paid by Customer to ScyllaDB during the period of the 6 months preceding the date of the claim, or (ii) US\$ 25,000. The foregoing provision limiting the liability of ScyllaDB shall apply regardless of the form or cause of action, whether in contract or tort, or a breach of a fundamental term or condition.

10.4. SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OR EXCLUSION OF CERTAIN WARRANTIES OR THE DISCLAIMER, EXCLUSION OR LIMITATION OF CERTAIN LIABILITIES. TO THE EXTENT THAT THEY ARE HELD TO BE LEGALLY INVALID, DISCLAIMERS, EXCLUSIONS AND LIMITATIONS SET FORTH IN THE TERMS DO NOT APPLY AND ALL OTHER TERMS SHALL REMAIN IN FULL FORCE AND EFFECT.

11. INTELLECTUAL PROPERTY INFRINGEMENT

11.1. If ScyllaDB believes the Services might infringe a third party's intellectual property rights, then ScyllaDB may, at its sole option and expense: (a) procure the right for Customer to continue using the Services; (b) modify the Services to make them non-infringing without materially reducing their functionality; or (c) replace the Services with a non-infringing, functionally equivalent alternative.

11.2. If ScyllaDB does not believe the remedies in Section 11.1 are commercially reasonable, then ScyllaDB may suspend or terminate Customer's use of the impacted Services and issue to the Customer a pro-rated refund with respect to the period commencing on the date of such suspension or termination.

11.3. Without affecting either party's termination rights, this Section 11 states the parties' only rights and obligations under this Agreement for any third party's intellectual property rights allegations in connection to infringement by the Services.

12. TERM AND TERMINATION

12.1. The "Term" of the Services will begin on the Effective Date and continue until the Services are terminated as set forth in this Section

12.2. Termination for Convenience. Customer may terminate the Services at any time. ScyllaDB may terminate the Services by way of 60 days prior written notice.

12.3. Termination for Breach.

12.3.1. Either party may terminate the Services in their entirety for breach if: (i) the other party is in material breach of the Terms and fails to cure that breach within 30 days after receipt of written notice; (ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within 90 days.

12.3.2. ScyllaDB may terminate or suspend any Services thereunder immediately for breach if Customer fails to make timely payment with respect thereto.

12.4. Either Party may terminate the Services for its convenience at any time upon a 60 days prior written notice to the other Party.

12.4. Either Party may terminate the Agreement for its convenience at any time upon a 60 days prior written notice to the other Party.

12.5. Effect of Termination.

12.5.1. Upon the termination of Services, ScyllaDB shall have the right, without any liability, to immediately terminate any servers and delete all related Customer Data related. The Customer undertakes, at Customer cost and expense, to copy, migrate, backup or make any other disposition in Customer Data as the Customer deems appropriate, prior to the termination of the applicable Services.

12.5.2. If the Services are terminated, then: (i) the rights granted by one party to the other will immediately cease, including immediate termination of the Cloud License and Customer Data License; (ii) all Fees owed by Customer to ScyllaDB are immediately due upon receipt of the final electronic bill; and (iii) upon request, each party will use commercially reasonable efforts to return or destroy all Confidential Information of the other party as applicable. The provisions which by their terms are intended to survive, shall survive the termination of the Services for any reason.

12.5.3. Customer acknowledges and agrees that ScyllaDB shall have the right, but not the obligation, to retain certain information and/or Customer Data following the lapse of the Term for archival purposes, including, among others, for billing purposes, legal requirements or disaster recovery purposes or as set forth in the DPA or as required under applicable laws and regulations.

13. DATA PROTECTION

13.1. As part of the Services we may be required to collect, access and/or process certain information of Customer or as part of your Customer Data. For information on how we collect, use and share Personal Data, as defined in the data processing addendum incorporated herein as an integral part of the Terms, available at: [Data Processing Agreement](#) (“DPA”). Furthermore, for any other instances relating to use of ScyllaDB cloud website, available at: [Scylla Cloud](#) (“ScyllaDB Cloud Website”) which shall be deemed a part of the Services for all intents

and purposes, if applicable, please read our privacy policy, available at: [ScyllaDB Privacy Policy](#) (“**Privacy Policy**”) which is also incorporated by reference hereunder.

13.2. ScyllaDB may process Personal Data that is contained in your Customer Data or as required to perform the Services in accordance with the terms and conditions of the DPA as applicable and required under applicable laws and regulations.

13.3. ScyllaDB’s Privacy Policy and DPA are incorporated into the Terms by reference. By using the Services, Customer represents and warrants that Customer has read and understood the practices described in our Privacy Policy, and agree to the terms and conditions of the DPA. Furthermore, Customer represents and warrants that Customer have all the necessary rights, authorizations and consents in connection with any processing of Personal Data of persons included or portrayed in the Customer Data, if and as applicable, and that any processing of such Personal Data shall be in accordance with the terms and conditions of the DPA, as required by applicable laws.

14. THIRD-PARTY WEBSITES

The Services or ScyllaDB’s Cloud Website may provide links to websites and access to content, products and services of third parties, including users, advertisers, affiliates and sponsors of the Services or ScyllaDB’s Cloud Website. ScyllaDB is not responsible for any third-party content provided on or through the Services or the ScyllaDB’s Cloud Website or for any changes or updates to such third party websites, and Customer

bear all risks associated with the access to, and use of, such websites and third-party content, products and services.

15. GENERAL PROVISIONS

15.1. Assignment. The Customer may not assign, transfer, or otherwise dispose of the Terms or any of its rights, interest, or obligations hereunder without the prior written consent of ScyllaDB. ScyllaDB may transfer or assign the Terms to: (a) an affiliate of ScyllaDB; or (b) an acquirer of all or substantially all of the shares or assets of such party through change of control event. Any assignment of the Terms in violation of this provision shall be null and void.

15.2. Notices. All notices and communications hereunder shall be in writing and shall be served by at least one of the following: (1) personal service; (2) registered or certified mail at the address of the receiving party set forth in the Terms (or at such different address as may be designated by such party by written notice to the other party); (3) electronic mail with electronic confirmation and followed immediately by (1) and/or (2).

15.3. Governing Law and Jurisdiction. These Terms shall be governed and construed in accordance with the laws of the State of Delaware, without giving effect to its conflicts of laws provisions, and the Courts situated in the Delaware, shall have sole and exclusive jurisdiction over the parties and any conflict and/or dispute arising out of, or in connection to, these Terms.

15.4. Independent Parties. We and Customer are independent contractors, and neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other. The Terms do not create any third-party beneficiary rights in any individual or entity that is not a party to the Terms. Our failure to enforce any provision contained in the Terms will not constitute a present or future waiver of such provision nor limit our right to enforce such provision at a later time.

15.5. Integration. the Terms, including, but not limited to the DPA and the SLA set forth the entire agreement between the parties on the subject hereof and supersedes any and all previously or currently existing oral or written agreements, understandings, memoranda, letters of intent, or representations on the subject matter hereof, as of the Effective Date.

15.6. Severance. If any one or more of the terms contained herein shall for any reason be held to be invalid or unenforceable, such term shall be construed in a manner to enable it to be enforced to the extent compatible with applicable law. Any determination of the invalidity or unenforceability of any provision of the Terms shall not affect the remaining provisions hereof unless the business purpose of the terms is substantially frustrated thereby.

15.7. Third Party Beneficiary. These Terms are not intended to and shall not be construed to give any third party any interest or rights (including, without limitation, any third party beneficiary rights) with respect to or in connection with any agreement or provision contained hereunder or

contemplated hereby, except as otherwise expressly provided for in these Terms.