

# DataByte Terms of Service

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## Welcome

Thanks for using our products and services. The services are provided by DataByte Ltd (DataByte), located at Level 1, Ewropa Business Centre, Birkirkara, BKR9034, Malta.

By using our Services, you are agreeing to these terms. Please read them carefully.

## Using our Services

You must follow any policies made available to you within the Services.

Don't misuse our Services. For example, don't interfere with our Services or try to access them using a method other than the interface and the instructions that we provide. You may use our Services only as permitted by law. We may suspend or stop providing our Services to you if you do not comply with our terms or policies or if we are investigating suspected misconduct.

Using our Services does not give you ownership of any intellectual property rights in our Services.

In connection with your use of the Services, we may send you service announcements, administrative messages, and other information.

Some of our Services are available on mobile devices. Do not use such Services in a way that distracts you and prevents you from obeying traffic or safety laws.

## Your DataByte Account

You will need a DataByte Account in order to use some of our Services. You may create your own DataByte Account, or your DataByte Account may be assigned to you by an administrator, such as your employer. If you are using a DataByte Account assigned to you by an administrator, different or additional terms may apply, and your administrator may be able to access or disable your account.

To protect your DataByte Account, keep your password confidential. You are responsible for the activity that happens on or through your DataByte Account. Try not to reuse your DataByte Account password on third-party applications. If you learn of any unauthorized use of your password or DataByte Account, please advise your administrator and change your password immediately.

## Your data in our Services

Our Services allow you to upload, submit, store, send or receive content and data. You retain ownership and responsibility of the data that you upload to our Services. This responsibility includes the regular download and backup of data from our systems for protection and safe-keeping.

DataByte does not share your data with third parties.

## Location of your Data

Unless expressly stated elsewhere, all data in our cloud applications is stored in European data centres.

## Data Protection

For the purposes of the General Data Protection Regulation, it is understood that DataByte is considered to be a processor of your data in order to be able to provide you with cloud software services and support. Please refer to the separate Data Processor Agreement is provided for this purpose.

## **Support**

In order to help you out when you encounter a problem while using our software, we provide a Support Help Desk to our clients during office hours. Support is to be requested on line through our support ticketing system from our website. Support includes implementation, training and operational support. Support is charged on a fee per hour pay-per-use basis and is not included with licence fees. Charges are made on the charge out rates applicable at the time of execution of the required support function. DataByte reserves the right to adjust the support charges from time to time.

## **Hardware Support**

Since a small portion of our software necessitates the use of specialised hardware components, DataByte will strive to support all such hardware related issues as long as the source of the support request lies entirely within the hardware provided by DataByte. During the support of such hardware related issues, DataByte may identify the cause of the problem to lie outside of the hardware remit and may suggest possible solutions. It is however the responsibility of the client's appointed IT personnel to carry on with support for this specific issue.

## **Invoicing**

DataByte will issue an invoice for all services deemed chargeable during the month that has just elapsed. The invoice will typically indicate as a line item the description of the service rendered to the client and the date on which it was executed. DataByte will not provide any internally generated supporting documentation that supports the issue of the fee charged. Clients can however request clarifications on fees charged within 30 days of receipt of the support invoice.

## **Documentation**

DataByte provides a comprehensive and updated set of documentation on its website or support platform for free to all clients. In most cases this documentation covers all aspects of the system operations together with "frequently asked questions" that are asked. Before contacting DataByte support, we strongly urge you to check the documentation and the FAQs to avoid being charged for support.

## **Uptime and Maintenance**

DataByte does its best to keep its Services constantly online and available to you at all times. However, this is balanced by the fact that we depend on third-party infrastructure providers for its uptime. We also very regularly push out new updates, new features and bug fixes that may slow down or render our Services unavailable to you for a few minutes every now and then.

DataByte will announce any major planned downtime with enough advance notice so as not to disrupt you.

## **Modifying and Terminating our Services**

We are constantly changing and improving our Services. We may add or remove functionalities or features, and we may suspend or stop a Service altogether.

You can stop using our Services at any time, although we'll be sorry to see you go. If you decide to stop using our services before the end of a licence term, we do not issue refunds for the unused part of the licence you have purchased. DataByte may also stop providing Services to you or add or create new limits to our Services at any time.

We believe that you own your data and preserving your access to such data is important. If we discontinue a Service, where reasonably possible, we will give you reasonable advance notice and the necessary time required to get your information out of that Service.

## **Our Warranties and Disclaimers**

We provide our Services using a commercially reasonable level of skill and care and we hope that you will benefit from using them. But there are certain things that we don't promise about our Services.

Other than, as expressly set out in these terms or additional terms, neither DataByte nor its suppliers or distributors make any specific promises about the services. Some jurisdictions provide for certain warranties, like the implied warranty of merchantability, fitness for a particular purpose and non-infringement. To the extent permitted by law, we exclude all warranties.

## **Liability for our Services**

When permitted by law, DataByte, and DataByte's suppliers and distributors, will not be responsible for lost profits, revenues, or data, financial losses or indirect, special, consequential, exemplary, or punitive damages. To the extent permitted by law, the total liability of DataByte, and its suppliers and Distributors, for any claims under these terms, including for any implied warranties, is limited to the amount you paid us to use the services for the current licence term.

In all cases, DataByte, and its suppliers and distributors, will not be liable for any loss or damage that is not reasonably foreseeable.

## **Business uses of our Services**

If you are using our Services on behalf of a business, that business accepts these terms. It will hold harmless and indemnify DataByte and its affiliates, officers, agents, and employees from any claim, suit or action arising from or related to the use of the Services or violation of these terms, including any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and legal fees.

## **Licences**

Every product we provide to you comes with a specific licence. The licence will determine the extent of the service and the duration for which the service will be provided. Licences are paid for each module in advance for a user defined period. Licences are be paid online directly through the system. The internal core system of the software license automatically halts the use of such license if this is not paid for by 30 days from the issue of the license. DataByte will charge an administrative fee to re-engage a client's licence if the client defaults from making payment. Suitable warnings are given to clients throughout system use for clients who are not in order with license fee payments.

When a licence is purchased online, the customer decides on the number of employees and the duration of the licence. Due to DataByte's own costs and costs imposed by third parties, an additional administrative fee applies for transactions below the amount of € 10. The same additional administrative fee applies whenever licences are not purchased online and added manually to the system by our support staff.

## Retention of your Data

Our right to process your data on our systems exists because you have an active licence with us to use our software services. Once a licence for a service has expired or is unpaid and not renewed within 30 days, the data related to that license will automatically be deleted. Once the data has been deleted, it will not be able to be retrieved, even if a new licence has been purchased.

It is your responsibility to ensure that you have a copy of your data after your licence has expired. DataByte accepts no liability in the case that data has been deleted from an account as a result of an expired or unpaid licence.

## About these Terms

We may modify these terms or any additional terms that apply to a Service to, for example, reflect changes to the law or changes to our Services. You should look at the terms regularly. We'll post notice of modifications to these terms on the system.

Changes will not apply retroactively and will become effective no sooner than fourteen days after they are posted. However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. If you do not agree to the modified terms for a Service, you should discontinue your use of that Service.

If there is a conflict between these terms and the additional terms, the additional terms will supersede this document for that conflict.

These terms control the relationship between DataByte and you. They do not create any third-party beneficiary rights.

If you do not comply with these terms, and we don't act right away, this doesn't mean that we are giving up any rights that we may have (such as taking action in the future).

If it turns out that a particular term is not enforceable, this will not affect any other terms.

The laws of Malta will apply to any disputes arising out of or relating to these terms or the Services. All claims arising out of or relating to these terms or the Services will be litigated exclusively in the courts of Malta, and you and DataByte consent to personal jurisdiction in those courts.

For information about how to contact DataByte, please visit our website at <https://databyte.com.mt>.