

MICRO FOCUS CUSTOMER TERMS - PROFESSIONAL SERVICES

1. Definitions. Capitalized terms in these Micro Focus Customer Terms - Professional Services (“Professional Services Terms”) are defined as follows:

1.1. “Agreement” means, collectively all applicable Statements of Work and these Professional Services Terms.

1.2. “Change Order” means a request to change the scope of Services and/or Deliverables that is signed by all parties or otherwise follows the approval process set forth in the SOW.

1.3. “Customer” means the customer identified in the SOW.

1.4. “Data Protection Legislation” means any law applicable from time to time relating to the processing of personal data and/or privacy, including, without limitation, the UK Data Protection Act 2018, EU Regulation 2016/679 (General Data Protection Regulation) (GDPR), the Privacy and Electronic Communications (EC Directive) Regulations 2003, and the California Consumer Privacy Act (CCPA), in each case including any legally binding regulations, direction and orders issued from time to time under or in connection with any such law and any equivalent or associated national law, as dictated by context.

1.5. “Deliverables” means the items specified as deliverables in the SOW.

1.6. “Micro Focus” means the Micro Focus contracting entity identified in the SOW.

1.7. “Personal data”, “processing”, “data controller”, “data processor” and “data subjects” shall have the meaning given to them in the GDPR and/or the CCPA, or as otherwise defined by applicable data protection legislation.

1.8. “Services” mean the services, including any specified Deliverables, to be provided to Customer as described in the SOW.

1.9. “Statement of Work” or “SOW” means the document describing the Services (including, but not limited to, a signed statement of work or, for packaged services, the applicable data sheet) to which these Professional Services Terms apply.

1.10. “Transition Period” means the transition period provided for in Part Four of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland (“UK”) from the European Union (“EU”) and the European Atomic Energy Community.

2. Services and Project Management.

2.1. Services. The Services and compensation described in the SOW are based upon information Customer provides and any assumptions set forth in the SOW. If information provided by Customer is incomplete or inaccurate, if the stated assumptions are incorrect, or if Customer by act or omission delays Micro Focus’ performance or presents Micro Focus with new requirements, the parties will accordingly modify the SOW through a Change Order, including specifying any additional fees.

2.2. On-site Practices. Micro Focus personnel performing Services on Customer’s premises shall observe reasonable safety and security protocols of which Micro Focus is notified in writing. If after creation of the SOW, Customer introduces new safety and security requirements that may increase Micro Focus’ costs, the parties shall in good faith mutually negotiate implementation of the requirements along with any related fee

increase. Unless a written agreement is executed between the parties accepting such new requirements, they shall not apply to Micro Focus.

2.3. Access. Customer will cooperate with Micro Focus by providing (a) access to applicable personnel, facilities, software, and equipment reasonably required by Micro Focus to perform the Services, and (b) timely decision-making, notification of relevant issues or information and granting of approvals. Customer shall inform Micro Focus of its point of contact for such purposes. It is Customer’s responsibility to back up and protect its computer systems and data.

2.4. No Support Obligation. Except as the parties may expressly agree otherwise in writing, Micro Focus has no obligation to provide technical support services for a Deliverable.

3. Deliverables License.

3.1. License. Subject to payment of all applicable fees for the Services, unless otherwise set forth in the SOW, Micro Focus grants Customer a nonexclusive, nontransferable, worldwide, royalty-free license to install, copy, and use Deliverables solely for Customer’s internal business operations. If Deliverables are described in the SOW as an extension or modification of Micro Focus software for which Customer has obtained, or is required to obtain, a license independent of this Agreement, copying and use of the Deliverables is limited to the terms and conditions of such Micro Focus software license. This Agreement is not intended to modify, amend or in any way affect the licensing, warranty, or other agreement provisions for software products separately licensed by Customer from Micro Focus or any other party unless it is expressly provided for in this Agreement.

3.2. Ownership. This Agreement does not transfer ownership of either party’s intellectual property. Except as expressly provided otherwise in this section or the SOW, Micro Focus (and/or its licensors) owns all right, title and interest, including without limitation, all intellectual property rights, in materials or other items, processes, ideas, techniques, and know-how learned, developed, delivered, and/or used by Micro Focus in the performance of this Agreement, including any Deliverables.

3.3. Protection of Deliverables. Customer shall take reasonable steps to protect Deliverables from disclosure to third parties. Any proprietary rights notices must be reproduced and included on all copies of Deliverables. If a Deliverable consists of software code, except for open source software or as otherwise specified in the SOW, the source code is not licensed to Customer. Customer may not reverse engineer, decompile, or disassemble any object code except as expressly permitted by law.

3.4. Separate Software License. Any commercially available software used in conjunction with the Services must be licensed and paid for by Customer under a separate agreement. This Agreement does not modify the license grant or other agreement provisions for software separately licensed by Customer from Micro Focus or any other party, except as may be expressly provided for in the SOW. No payment of any software license fee or any other fee by Customer outside this Agreement shall be contingent upon Micro Focus’ completion of Services.

4. Payment.

4.1. Fees and Expenses. Customer will pay Micro Focus the fees specified in the SOW and reimburse Micro Focus for the travel, accommodation, subsistence, and related expenses of Micro Focus personnel that provide the Services as specified in the SOW, unless

otherwise specified in the SOW. Unless otherwise set forth in the SOW, Customer agrees to pay, without offset, all invoiced amounts within thirty (30) days of Micro Focus' invoice date. Micro Focus may suspend performance under the SOW if Customer fails to make a payment when due.

4.2. Invoicing. Unless otherwise agreed in the SOW, Service fees and any applicable expenses shall be calculated by Micro Focus on a monthly basis and invoiced to Customer after the end of each month. Payments made later than the due date will accrue interest from the date due to the date paid at the lesser rate of 1% per month or the maximum allowed by applicable law. Customer shall be liable for any such interest and all related reasonable collection costs, whether or not an action has been filed. If a payment is late, Micro Focus shall be entitled to suspend performance of the Services and, at its option, terminate the SOW on written notice.

4.3. Taxes. Fees and expenses under the SOW are exclusive of applicable taxes. Customer is responsible for any taxes associated with the delivery of Services excluding taxes on Micro Focus' net income or assets. If Customer claims exempt status for any sales tax, Customer will provide the appropriate exemption certificates in advance of payment. If Customer is required to withhold taxes, Customer will furnish receipts substantiating such payment. If Micro Focus is required to remit any tax or duty on behalf of or for the Customer account, Customer will reimburse Micro Focus within 30 days after Micro Focus notifies Customer in writing of such remittance.

4.4. Costs. Micro Focus shall not be liable for any costs, charges, losses, or delays sustained or incurred by Customer that arise directly or indirectly from any delay or any other act or omission of Customer or Customer's agents, subcontractors, consultants, or employees. Customer shall pay Micro Focus on demand all reasonable costs, charges, or losses incurred by Micro Focus (including, without limitation, loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, delay, or failure to perform its obligations under this Agreement, subject to Micro Focus confirming such costs, charges, and losses to Customer in writing.

4.5. Fixed Price. Any fixed price under the SOW excludes the cost of hotel, subsistence, travel, and any other ancillary expenses reasonably incurred by the individuals whom Micro Focus engages in connection with the Services, the cost of any materials, and the cost of services reasonably and properly provided by third parties and required by Micro Focus for the furnishing of the Services. Such expenses, materials, and third-party services shall be invoiced by Micro Focus to Customer including any applicable taxes at the appropriate rate.

5. Term.

5.1. Term and Termination. This Agreement term shall be for the period specified in the SOW, after which it will automatically expire. Either party may, by giving written notice to the other party, terminate this Agreement if the other party commits a material breach of this Agreement, however in the case of a breach that is capable of being remedied the breaching party shall have 30 days from the written notice of such breach to remedy it. Micro Focus may, by giving 14 days prior written notice, terminate this Agreement if Customer defaults on payment of any fees and fails to remedy such default.

5.2. Effect of Termination. Agreement termination for any reason shall not affect any accrued rights or liabilities of either party, nor shall it affect any Agreement provision which is expressly or by implication intended to come into or continue in force on or after such termination.

5.3. Early Termination. Upon early termination of the SOW by

Customer (except for Micro Focus' breach), Customer shall pay amounts specified in the SOW relating to work performed up to the termination date, as well as any additional costs or expenses which Micro Focus has incurred or contracted for with respect to the Services and is unable to avoid.

6. Warranties.

6.1. Warranty. Micro Focus warrants that the Services shall be performed in a professional manner in accordance with generally accepted industry standards and are deemed accepted as performed unless otherwise set forth in the SOW. Micro Focus warrants that a Deliverable will materially conform to the specifications for it described in the SOW. Unless otherwise stated in the SOW, Customer must notify Micro Focus of any claim under this Section 6.1 within 30 days of delivery of the applicable Services and/or Deliverables. Upon receipt of timely written notice of a claim, Micro Focus' obligation is to correct the Services so that they comply with this warranty.

6.2. Exclusions. This warranty excludes non-performance issues that result from third-party hardware or firmware malfunction or defect, software not developed by Micro Focus, incorrect data or incorrect procedures used or provided by Customer or a third party, changes to a Deliverable or Customer's computing environment, or defects outside the reasonable control of Micro Focus. Customer will reimburse Micro Focus for its reasonable time and expenses for any Services provided at Customer's request to remedy or mitigate such excluded issues.

6.3. Disclaimer. EXCEPT AS EXPRESSLY DESCRIBED IN THIS WARRANTY SECTION, MICRO FOCUS DISCLAIMS AND EXCLUDES ANY AND ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, REPRESENTATIONS, AND CONDITIONS WITH RESPECT TO SERVICES AND DELIVERABLES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, GOOD TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. Micro Focus does not warrant that the Services or any Deliverables will be without defect or error.

6.4. Dates. Micro Focus undertakes to use reasonable endeavors to meet applicable dates for performances of the Services, but it shall not be an obligation of Micro Focus under this Agreement that such dates will be strictly met.

7. Limitation of Liability.

7.1. MICRO FOCUS SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS, BUSINESS, OR DATA) ARISING UNDER OR RELATING TO THIS AGREEMENT, EVEN IF MICRO FOCUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MICRO FOCUS' LIABILITY FOR A CLAIM ARISING UNDER OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED AMOUNTS PAID BY CUSTOMER FOR THE SERVICES GIVING RISE TO THE CLAIM.

7.2. The limitations in this section do not apply to liability for death or personal injury to the extent such liability results from Micro Focus' gross negligence, or to liability that otherwise cannot be limited by applicable law.

8. Indemnification.

8.1. Scope. Micro Focus will defend any claim brought against Customer by a third party to the extent it is based on an allegation that Customer's use of a Deliverable infringes such third-party's patent, copyright, or trademark, or misappropriates such third party's trade

secrets, in each case as enforceable under the laws of the United States, Canada, the European Union, or the UK following the end of the Transition Period. Micro Focus will indemnify Customer from any damages, costs, and expenses finally awarded (or agreed to by Micro Focus in settlement) for any such claim. As a precondition, Customer must promptly notify Micro Focus of the claim, give Micro Focus control of the defense and related settlement negotiations, and provide Micro Focus with reasonable assistance (for which Micro Focus shall pay Customer's reasonable out-of-pocket costs) in defending the claim. If Customer desires separate legal representation in any such action, Customer will be responsible for the costs and fees of its separate counsel.

8.2. If a Deliverable is held to infringe and its use is prohibited or Micro Focus determines it is likely to become the subject of an infringement claim, Customer will permit Micro Focus, at Micro Focus's option and expense, to (a) procure for Customer the right to continue to use the Deliverable, or (b) replace or modify the Deliverable so that it becomes non-infringing with similar functionality, or (c) upon Customer's return of the infringing Deliverable, refund the amount paid for the infringing Deliverable.

8.3. Limitations. Micro Focus will have no obligation of defense or indemnity to the extent a claim arises from (a) compliance with Customer's designs or instructions, (b) modification of a Deliverable not authorized in writing by Micro Focus, or (c) use or combination of a Deliverable with non-Micro Focus software, equipment, data, or business processes. This Section 8 (Indemnification) states the exclusive obligation of Micro Focus for any claim of infringement or misappropriation of any intellectual property rights. Micro Focus' liability for an infringement or misappropriation claim is limited to twice the amount paid by Customer for the Deliverable giving rise to the claim. This limitation does not apply to Micro Focus' obligation to defend a covered claim.

9. Confidentiality. The party receiving Confidential Information may only use it for the purposes of this Agreement and will exercise reasonable care to protect any Confidential Information from unauthorized disclosure or use. The receiving party may disclose Confidential Information only to its or its affiliates' employees, contractors, or agents that are obligated to comply with these confidentiality obligations. "Confidential Information" means the Agreement terms and any other information that (i) if disclosed in tangible form, is marked in writing as confidential, or (ii) if disclosed orally or visually, is designated orally at the time of disclosure as "confidential." Confidential Information will not include information (a) already in the receiving party's possession without obligation of confidence; or (b) independently developed by the receiving party; or (c) that becomes available to the general public without Agreement breach; or (d) rightfully received by the receiving party from a third party without obligation of confidence; or (e) released for disclosure with the disclosing party's written consent; or (f) required to be disclosed by law, regulation, or court order. These confidentiality obligations will survive 5 years after Agreement termination.

10. Personal Information.

10.1. Provision of Personal Information. Customer will not provide Micro Focus with personal data unless the parties expressly agree in writing to the provision by Customer, and receipt by Micro Focus, of such data. Where the parties expressly agree in writing that personal data will be provided by Customer ("Customer Personal Data") (i) Customer authorizes Micro Focus to process Customer Personal Data to the extent required to provide the Services and comply with its obligations at law (the "Permitted Uses") and (ii) where applicable, the provisions of Section 10.2 shall apply.

10.2. Micro Focus as Data Processor. If, in processing Customer Personal Data, Micro Focus processes Customer Personal Data as a data

processor on behalf of Customer as a data controller that is subject to the GDPR, the following terms shall apply:

- a. Micro Focus shall only process Customer Personal Data (i) in accordance with the written instructions of Customer (including this Agreement) or (ii) where required to do so by applicable law. Micro Focus shall inform Customer if in its opinion an instruction given by Customer infringes the Data Protection Legislation;
- b. Micro Focus shall, in addition to the measures put in place by Customer, implement and maintain all appropriate technical and organizational security measures: (i) to ensure a level of security appropriate to the risk to Customer Personal Data when it is processed by Micro Focus and (ii) to assist Customer in the fulfilment of its obligations to respond to requests from data subjects exercising their rights under the Data Protection Legislation.
- c. Micro Focus shall:
 - (i) provide all assistance to Customer as is reasonably requested in writing to enable the Customer to comply with its obligations pursuant to the Data Protection Legislation (including its obligations pursuant to Articles 32 – 36 GDPR);
 - (ii) take all reasonable steps to ensure that access to the Customer Personal Data is limited to those personnel who require access to it for the purpose of complying with Micro Focus' obligations under this Agreement and that such personnel are bound by enforceable obligations of confidentiality;
 - (iii) in the event that processing Customer Personal Data involves the transfer by Micro Focus of Customer Personal Data outside of the EEA, or the UK following the end of the Transition Period, Micro Focus shall ensure that such transfer is in compliance with the GDPR. If Micro Focus Processes Personal Data that includes Protected Health Information ("PHI") pursuant to the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d-1320d-8 ("HIPAA"), the terms in the Business Associate Agreement specified in Section 10.3 below shall also govern such transfer and subsequent use of the PHI by the recipient.
 - (iv) following the end of the provision of the Services permanently delete all Customer Personal Data (including copies) in its possession or control, save where required to retain such Customer Personal Data by applicable law; and
 - (v) subject to Customer and/or Customer's representatives signing suitable undertakings of confidentiality, allow Customer and/or Customer's representatives, on reasonable notice to Micro Focus, to conduct one audit (including inspections) per 12 month period of all data processing facilities, procedures, documentation and other matters required to demonstrate Micro Focus' compliance with the Data Protection Legislation and this Section 10.2. Micro Focus shall contribute to such audits in a reasonable manner.
- d. Customer grants Micro Focus a general authorization to engage sub processors to provide the Services on behalf of Micro Focus in accordance with Section 11.5. Where a sub processor is appointed who will process Customer Personal Data on behalf of Micro Focus, Micro Focus shall ensure that any such sub processors are contractually bound by the same data protection obligations as set out in this Section

10.2. Where a subcontractor is engaged, Micro Focus shall remain liable to Customer in respect of any breach of this Section 10.2 that is caused by an act, error or omission of such subcontractor. Micro Focus shall inform Customer of any intended changes concerning the addition or replacement of subcontractors who will process Customer Personal Data.

10.3. PHI. Customer shall ensure that Micro Focus does not at any time have access to any PHI unless the parties have first executed a Business Associate Agreement for the specific Services or Deliverables and such Business Associate Agreement is referenced in the SOW.

11. General Provisions.

11.1. Law and Jurisdiction. This Agreement and any claims or causes of action, whether in contract, tort or statute, based on, arising under or relating to this Agreement, will be governed and enforced as follows: If Customer's principal place of business is in: (i) the United States, the laws of the State of Delaware will govern, without giving effect to any conflict of law rule or other rule that could result in the application of laws of a different jurisdiction, and the parties consent to exclusive jurisdiction of the state and federal courts of Delaware, except that Micro Focus will be allowed to apply for injunctive relief in any jurisdiction; (ii) the United Kingdom, Australia, Brazil, France, Germany, Italy, the Netherlands, New Zealand, Spain or Singapore, the laws of the country where Customer's principal place of business is located will govern, without giving effect to any conflict of law rule or other rule that could result in the application of laws of a different jurisdiction, and the parties consent to exclusive jurisdiction of the courts of said country, except that Micro Focus will be allowed to apply for injunctive relief in any jurisdiction; or (iii) a country other than the United States, the United Kingdom, Australia, Brazil, France, Germany, Italy, the Netherlands, New Zealand, Spain or Singapore, the laws of England and Wales will govern, without giving effect to any conflict of law rule or other rule that could result in the application of the laws of a different jurisdiction, and the parties consent to the exclusive jurisdiction of the courts of competent jurisdiction of England and Wales, except that Micro Focus will be allowed to apply for injunctive relief in any jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods will not apply.

11.2. Entire Agreement. This Agreement constitutes the entire agreement between the parties for the Services and supersedes any prior representations and communications, whether oral or written. This Agreement may be modified only in writing signed by both parties. The terms of any purchase order or similar document will not modify this Agreement.

11.3. Force Majeure. The parties' obligations under this Agreement shall be deferred, except for payment obligations, to the extent that performance is delayed, hindered, or prevented by causes beyond their control including any strike or other labor dispute, war, act of terror, civil disturbance, action or inaction of government, embargo, epidemic, fire, earthquake, flood or act of God; or default of common carrier.

11.4. Assignment. Customer may not assign this Agreement or any of its rights or obligations thereunder. Micro Focus may assign this Agreement to another company within the Micro Focus group of companies or to a purchaser of all or a substantial part of the assets of Micro Focus.

11.5. Subcontractors. Micro Focus may use subcontractors to provide the Services. Any reference to Micro Focus personnel in this Agreement will be deemed to include Micro Focus subcontractor

personnel.

11.6. Personnel. The assignment of named Micro Focus personnel to perform the Services is subject to their possible resignation or being absent for reasonable domestic cause and Micro Focus shall have no liability for any such interruption to the Services. In such cases, Micro Focus will, after discussion with Customer, attempt to provide substitute personnel with equivalent skills.

11.7. Non-solicit. Without written consent from Micro Focus, during the term of this Agreement and for 12 months afterwards, Customer shall not deliberately attempt to recruit, or offer employment or work to, any personnel, employed or retained by Micro Focus who have been involved in the provision of the Services hereunder. Micro Focus resources represent a significant investment in recruitment and training. In case of breach of this provision by Customer, a fee shall become payable by Customer to Micro Focus which shall be equivalent to 12 months' remuneration of such personnel.

11.8. Notices. Any notices given pursuant to this Agreement shall be in writing delivered by hand, recorded delivery or registered post addressed to Micro Focus and Customer as set forth above unless otherwise specified in the SOW, or to such other address as may be noticed in writing by either party to the other party.

11.9. Severability. If a provision is invalid or unenforceable, the remaining provisions will remain in effect and the parties will amend this Agreement to reflect the original agreement to the maximum extent possible.

11.10. Waiver. No Agreement term shall be deemed waived and no breach deemed consented to or excused unless such waiver or consent is in a writing signed by a party's authorized representative. No consent to or waiver of a breach shall constitute a consent to or waiver of any different or subsequent breach.

11.11. Export. Deliverables may be subject to export controls and the trade laws of the U.S., the EU, and other countries. The parties agree to comply with all export control regulations.

11.12. Independent Contractors. This Agreement creates no relationship of joint venture, partnership, association, or principal and agent between the parties and both parties act as independent contractors and principals for their own accounts. Nothing in this Agreement and no course of dealing between the parties creates an employment or agency relationship or partnership between a party and the other party or its employees or agents. Each party shall be solely responsible for all employment benefits for its employees.