

# Learning Services Terms for Micro Focus Products

These Learning Services Terms (“Terms”) describe the terms and conditions under which the Customer may receive certain Learning Services for Micro Focus Products.

## 1. Definitions

“**Access Code**” means the code sent electronically to the Customer or Student that enables a Digital Learning solution.

“**Business Days**” means standard local business days of the applicable Micro Focus entity, excluding bank and local public holidays.

“**Curriculum**” means the overall course content, including the instructional materials, Student kit, Learning Materials and sequence of the Learning Services.

“**Customer**” means an end-user entity who purchases Learning Services from Micro Focus.

“**Direct Enrollment**” refers to a Customer using the Micro Focus online enrollment system to enroll a Student in a Learning Services offering.

“**Direct Payment**” means payment other than by use of a Flexible Credit or Learning Credit, such as through issuance of a purchase order or other method accepted by Micro Focus.

“**Flexible Credit(s)**” is a currency available from Micro Focus that can be used to enroll in and consume Learning Services as specified in these Terms. Flexible Credits are purchased as a Support offering and separate terms apply.

“**Learning Services**” may be customized and presented in different formats and include the following offerings:

- “**Certifications/Accreditations**” are official records that certify that a person has received specific Learning Services, attended a training or has passed a test or series of tests.
- “**Digital Learning**” is training delivered online, including self-study, web-based training. Digital Learning is provided for a named user for the period identified within the course description. The assigned Student cannot be changed after the course has been accessed.
- “**ILT**” is Instructor-Led Training, which can be a scheduled public class, or a class dedicated to a specific customer and may be delivered remotely or onsite.
- “**Learning Subscription(s)**” provides one year of access to self-paced learning from the date the login is provided. Each Learning Subscription covers one named Student. The assigned Student cannot be changed after the account has been accessed.
- “**Learning Materials**” are training materials, courseware and other written materials that provide a written version of Learning Services, if purchased separately by Customer. See Exhibit B for additional details.

“**Learning Credits**” is a currency available from Micro Focus that can be used to enroll in and consume Learning Services as specified in these Terms. See Exhibit A for additional details.

“**Micro Focus**” or “**our**” means the applicable Micro Focus entity authorized to sell Learning Services to Customer.

“**Student**” means the Customer’s employee, temporary personnel, flex-force and other individual employed or contracted by the Customer who is authorized to consume Learning Services.

## 2. Enrollment Reservation

Micro Focus will provide the Customer with a pending reservation notice after receipt of the Customer’s Direct Enrollment registration or credit card payment through the Micro Focus Learning Management System (“Registration”). Registration is not final until Micro Focus provides the Customer with a confirmation notice.

### Start Date

Unless otherwise specified or agreed in writing by Micro Focus, delivery of Learning Services commences on the date and in the time zone specified by Micro Focus in the confirmation notice. Virtual courses are offered from a variety of different time zones, and Customer is responsible for its selection of Learning Services to achieve Customer’s intended results.

## 3. Payment

### Pricing and Payment Terms

Micro Focus may charge separately for reasonable out-of-pocket expenses, such as travel expenses incurred in providing Learning Services. Customer agrees to pay all invoiced amounts within thirty (30) days of Micro Focus’s invoice date. Micro Focus may suspend or cancel performance for any open orders for Learning Services or any related services (an “Order”) if the Customer fails to make payments when due. Micro Focus reserves the right to change the price of Learning Services (e.g., the quantity of Flexible Credits or Learning Credits required to register for Learning Services). Any such change will not affect the Learning Services for which the Customer has already registered.

### Credit Cards

Customers have the ability to purchase Learning Services using a third party credit card processing service. Micro Focus does not have access to any Customer credit card data.

### Entitlement

When the Customer uses Flexible Credits (or Learning Credits) to purchase Learning Services, Micro Focus will send an “Entitlement Code” to the Customer. This code will enable the Customer to register for Learning Services.

#### **4. Cancellation of Learning Services; Reallocation; Certificates**

##### **Cancellation by Micro Focus**

Micro Focus will use reasonable efforts to give notice of cancellation of any Learning Services in which Customer is enrolled. Micro Focus reserves the right to cancel Learning Services for any reason, including failure to achieve a minimum required attendance. In addition, all Learning Services are subject to schedule changes. If Flexible Credits (or Learning Credits) were used to register for Learning Services cancelled by Micro Focus, the Flexible Credits (or Learning Credits) will be returned to the Customer's account and the original Flexible Credits (or Learning Credits) expiration date will apply except that, if the cancellation by Micro Focus occurs less than 30 days prior to the original Flexible Credits (or Learning Credits) expiration date, Micro Focus will work with the Customer to allow the Credits to be used on a mutually agreeable date towards payment for future Learning Services. If a credit card payment was used to register for ILT, Micro Focus will work with the Customer to allow the payment to be applied on a mutually agreeable date towards future Learning Services or, at the Customer's request, refunded. However, credit card payments made to register for Certifications/Accreditation or Digital Learning are not refundable.

##### **Cancellation by the Customer**

There shall be no refund of the applicable fee if: (i) Customer cancels or reschedules with less than ten (10) Business Day prior to the start of the scheduled Learning Services or (ii) Students fail to attend the registered class for any reason ("no-shows"). Cancellations with less than 10 business days' notice will be deducted from the Credit balance in full. For those Customers who cancel or reschedule ten (10) or more Business Days in advance of the scheduled training, the applicable Flexible Credits (or Learning Credits) will be returned to the Customer account (subject to applicable Flexible Credits (or Learning Credits) expiration date). Learning Services may not be cancelled once the Entitlement Code has been delivered. All cancellation/rescheduling notices must be in writing. If applicable, Customer agrees to pay all non-refundable expenses incurred, including, but not limited to, airfare.

##### **Learning Services Entitlement Reallocation**

Micro Focus, at its sole discretion, may allow Student entitlement reallocations in some situations. These situations include, but are not limited to:

- Student changes can be made by notifying Micro Focus in writing at least 5 business days before class delivery.
- Where a specific named Student leaves Customer's employment before or during the relevant duration, Customer may reassign the entitlement to another employee for the remaining duration by promptly notifying Micro Focus.

Micro Focus reserves the right to charge an entitlement reallocation fee that will be communicated to Customer prior to the reallocation.

##### **Certificates of Completion**

Where completion of specific Learning Services is dependent upon class attendance, only those Students enrolled from the start date through and including the completion date will be eligible to receive a Certificate of Completion. Students who attended a portion of the total classes will be issued a certificate indicating the number of hours completed. For self-paced or other Learning Services that do not require class attendance, completion criteria will be provided, and certificates of completion will be issued to those students who successfully fulfill all completion criteria.

##### **Digital Badges**

Digital badges for completion of Learning Services are provided by Credly, a third party digital credentialing service provider. Customer acknowledges that personal information of Students will be shared with Credly in order for the Students to receive digital badges. Personal information will include name, email address and Learning Services achievements. Credly provides Customer the ability to remove data from their system. Credly's use of personal information shall be subject to [Credly's Privacy Policy](#).

#### **5. Termination of Agreement**

Either party may terminate this agreement on written notice if the other fails to meet any material obligation and fails to remedy the breach within 30 days after being notified in writing of the details.

If either party becomes insolvent, unable to pay debts when due, files for, or is subject to, bankruptcy or receivership or asset assignment, the other party may terminate this agreement and cancel any unfulfilled obligations. Any part of these Terms which by their nature extend beyond termination or expiration of these Terms will remain in effect until fulfilled and will apply to both parties' respective successors and permitted assigns.

#### **6. Usage of Micro Focus Learning Services**

##### **Named User**

All Learning Services are provided on a named-user basis. At the time of enrollment, the Customer must provide Micro Focus with the names of each Student. Micro Focus will issue a Certificate of completion only to registered Students who have successfully completed the requirements of the Curriculum for the applicable Learning Services.

##### **Personal Data Collected**

Micro Focus will collect business contact information (e.g., name, business phone, email address and office address) of Customers and other personal information relating to Students as a data controller for the purpose of administering the business relationship with the Customer and providing the Learning Services to the Student. Such personal information shall be held by and used by Micro Focus and its affiliates in accordance with Micro Focus's privacy policy which can be found on Micro Focus' website at <https://www.opentext.com/about/privacy> . To the extent Micro Focus has access to personal data of Students located in the

European Union (and other countries with applicable data protection laws), such applicable law on data protection applies and Micro Focus will comply with its applicable legal obligations.

#### **Internal Training Purposes Only**

The end-user Customer may use Learning Services for registered and internal training purposes only. Curriculum may only be used by the enrolled Student.

#### **Digital Learning Usage**

Digital Learning is hosted on servers owned or contracted by Micro Focus. Login IDs and passwords will be valid only for the duration of the enrolled Learning Services ("Authorized Duration"). The Authorized Duration of specific Learning Services is separate and distinct from the validity and expiration of the Flexible Credits (or Learning Credits).

#### **Acceptance**

Acceptance of Learning Services will occur upon the Micro Focus' completion of delivery. For the avoidance of doubt, completion of delivery applies to each delivered element of Learning Services. Notwithstanding the foregoing, for Digital Learning which requires an Access Code, acceptance will occur upon delivery of such Access Code.

#### **Materials**

Student instructional materials will be provided in electronic format where available. Should the student require printed (hard copy) materials, the Customer shall provide at least ten (10) working day notice. These materials may be subject to additional charges and will be covered under a separate agreement.

### **7. Intellectual Property**

#### **Intellectual Property Rights**

No rights in copyright, patents, trademarks, trade secrets, or other intellectual property are assigned or granted by Micro Focus except as expressly provided herein.

#### **Curriculum**

All Curriculum, including Learning Services and Learning Materials, provided by Micro Focus is the copyrighted work of Micro Focus or a third party who has licensed the use of the Curriculum by Micro Focus. The Curriculum is provided for the sole use of the Student accessing the Learning Services and may not be used by any other person. The Curriculum may not be reproduced, recorded, repurposed, distributed or modified without the prior written permission of Micro Focus. Video recording, screen capture and similar actions are not permitted by the Customer, Student, or their personnel. The Learning Materials may not be reproduced, recorded, repurposed, distributed or modified except as set forth in Exhibit B, and Customer must retain all original copyright and trademark notices.

#### **Limited Infringement Defense**

Micro Focus will defend and/or settle any claims against the Customer that allege that Learning Services supplied under these Terms infringe the intellectual property rights of a third party in the applicable jurisdiction. Micro Focus will rely on the Customer's prompt notification of the claim and cooperation with our defense. Micro Focus may modify the product or service so as to be non-infringing and materially equivalent, or we may procure a license. If these options are not available, we will refund to the Customer the amount paid for the Learning Services. Micro Focus is not responsible for claims resulting from any unauthorized use of Learning Services.

### **8. Limited Warranty and Disclaimer**

Micro Focus warrants that all Learning Services will be provided in a commercially reasonable and workmanlike manner. Other than as expressly set forth herein, Micro Focus Learning Services are provided "AS IS" without warranty of any kind (e.g., without warranty as to the suitability or quality of the Learning Services) and expressly disclaims all liability for anything done or omitted in reliance upon the Learning Services. Customer has sole responsibility for fulfilling any requirements or accomplishing any objectives for which the Customer purchased any Learning Services. All implied or statutory terms, conditions, representations, and warranties (including without limitation all terms, conditions, representations and warranties regarding merchantability, quality or fitness for a particular purpose, title or non-infringement, or that may arise out of course of dealing, usage or trade practice) are expressly disclaimed and excluded to the extent allowed by applicable law.

### **9. Limitation of Liability; Statute of Limitation; Remedies**

#### **Limitation of Liability**

Micro Focus's liability to the Customer under these Terms is limited to the amount paid by the Customer to Micro Focus for the relevant Order. Neither the Customer nor Micro Focus will be liable for lost revenues or profits, downtime costs, loss or damage to data or indirect, special or consequential costs or damages. This provision does not limit either party's liability for: unauthorized use of intellectual property, death or bodily injury caused by their negligence; acts of fraud; willful repudiation of the Terms; or any liability which may not be excluded or limited by applicable law.

#### **Statute of Limitation**

In no event will any cause of action be brought against Micro Focus more than one year after the event giving rise to the cause of action has occurred.

#### **Sole and Exclusive Remedies**

The remedies set forth in these Terms are sole and exclusive remedies.

### **10. General Terms**

#### **Learning Services Delivered Online**

The Customer acknowledges and agrees that temporary interruptions of Learning Services delivered remotely or online may occur

from time to time. Micro Focus shall exercise reasonable care to prevent or minimize such interruptions. Micro Focus shall not be liable to the Customer for any failure or delay in receiving or transmitting data, or for any loss of or corruption to any data arising out of or in connection with delivering or conducting online training services.

**On Premises Policies/Right to Refuse Service**

Customer shall ensure that all Students abide by posted signs or any policies specific to the premises where Learning Services are provided (the “Policies”). Micro Focus may refuse admission to any individual if it determines, in the sole discretion of Micro Focus, that such admission poses a safety or security risk. Additionally, Micro Focus may require any person who does not abide by the Policies to leave the premises. Fees paid for Learning Services not provided or completed in these circumstances will be forfeited—the Customer will not be entitled to any refund.

**Force Majeure**

Micro Focus will not be liable for performance delays or for non-performance due to causes beyond its reasonable control.

**Assignment**

Except with respect to Micro Focus’ rights regarding the use of subcontractors, neither party may assign any rights or obligations hereunder without prior written consent of the other party. Micro Focus may, however, assign any rights and obligations hereunder to an affiliated entity at any time subject to written notice or without such notice as a consequence of a merger, acquisition, consolidation, reorganization or sale of substantially all of its assets or of the business to which these Terms pertain. These Terms will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

**Export and Import**

The Customer who exports, re-exports or imports data purchased hereunder, assumes responsibility for complying with applicable laws and regulations, and for obtaining required export and import authorizations. Micro Focus may suspend performance if the Customer is in violation of applicable export laws.

**Governing Law**

Disputes arising in connection with these Terms will be governed by the laws of the country and locality in which Micro Focus accepts the Order; however, Micro Focus or its affiliate may bring suit for payment in the country where the Customer affiliate that placed the Order is located. The Customer and Micro Focus agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

**Severability**

If any term or provision herein is determined to be illegal or unenforceable, the validity or enforceability of the remainder of these Terms will remain in full force and effect.

**Customer Responsibilities**

The Customer will comply with the general obligations specified by these Terms together with any written requirements provided to Customer and/or Student, such as technical tests to check suitability of a location or computer equipment to be used, in a timely manner. The Customer acknowledges that Micro Focus’s ability to deliver the Learning Services is dependent upon Customer’s full and timely cooperation with Micro Focus, as well as the accuracy and completeness of any information and data Customer provides to Micro Focus.

**No Waiver**

Neither party’s failure to exercise any of its rights under these Terms will constitute or be deemed a waiver or forfeiture of those rights.

**Integration**

These Terms and any applicable Micro Focus order confirmation or similar documentation related to an accepted Order constitute the entire agreement between Micro Focus and the Customer and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. Customer’s additional or different terms and conditions will not apply. Customer’s additional or different terms and conditions will not apply. These Terms may not be changed except by an amendment signed by an authorized representative of each party.

## **Exhibit A Learning Credits**

**1. Description.** Learning Credits purchased by Customer provide pre-paid funds which Customer will use to consume Learning Services. Customer shall allocate the Learning Credits for Learning Services products listed in the <https://www.microfocus.com/education> during the Learning Credits Period.

**2. Expiration.** Learning Credits are valid for 12 months from the purchase date ("Learning Credits Period"). At the end of the Learning Credit Period any unused Learning Credits expire. All Learning Services purchased utilizing Learning Credits must be delivered prior to the end of the Learning Credit Period.

### **3. Usage.**

3.1 Learning Credits are redeemed as one (1) Learning Credit equal to (=) \$1 U.S. Dollar or the equivalent value of the currency defined in the purchase. Learning Credits value is applied to the list price of the Learning Services products at the time of redemption.

3.2 List prices for standard products can be found on <https://microfocus-education.sabacloud.com/> by searching for specific products. Prices for private training or custom developed learning services products are mutually agreed upon by the parties in a SOW prior to delivery. For any products that exceed the remaining Learning Credits balance, Micro Focus will issue the Customer an invoice for the remaining cost.

3.3 Customer will designate a primary contact ("Learning Credit Manager") to approve usage of Learning Credits. Micro Focus provides the Learning Credit Manager with: (i) registration instructions to provide authorized Customer employees to use Customer's Learning Credits, and (ii) quarterly email updates on the usage of and remaining balance of Learning Credits.

### **4. General terms.**

4.1 When Learning Credits are redeemed for private classes or tailored user adoption services a written agreement will be issued that outlines additional project details, deliverables and costs.

4.2 When Learning Credits are redeemed for public or private classes the following conditions apply:

4.2.1 Training days to be scheduled as consecutive business days unless otherwise agreed.

4.2.2 Micro Focus will provide an online hands-on lab environment to students for the training days (as applicable).

4.2.3 Micro Focus will provide copyrighted course materials to training participants for personal use in eBook format unless otherwise agreed.

4.2.4 Micro Focus public classes require a quorum of three (3) or more students in order to be delivered as scheduled.

4.3 Customer will pay Micro Focus for any reasonable and documented travel, lodging and meals ("Travel Expenses") directly associated with the performance of service under a SOW – either with available Learning Credits or alternatively Customer will pay via a separate invoice issued by Micro Focus.

4.4 Micro Focus prohibits the audio and video recording of any learning related services.

4.5 Training delivery and course materials to be provided in English unless the parties mutually agree to provide the training in an alternative language.

4.6 For any private, on-site class, a training facility will be provided by Customer which conforms to Micro Focus' training facility requirements:

4.6.1 For the instructor:

A. Digital projector or large digital TV.

B. Whiteboard or flipchart with markers.

C. External network connection to connect their laptop, or an instructor laptop provided with an external network connection.

4.7 For the students: computer workstations with connection to Micro Focus' online lab.

4.8 Micro Focus requires a minimum of 10 business days advance written notice for class cancellations. Cancellations outside of that period will be deducted from the Learning Credit balance in full.

**Exhibit B**  
**License for Learning Materials**

1. This Exhibit applies to Learning Materials purchased separately from other instructional services under a Learning Materials license. Use of the Learning Materials is subject to the terms of this license and the [Learning Materials FAQ](#).
2. **Description.** Customer may purchase the Learning Materials together with other Learning Services or independently. Each set of Learning Materials is specific to a Curriculum and will only reflect that Curriculum.
3. **Grant of License.** For Customers purchasing Learning Materials, Micro Focus licenses to Customer the Learning Materials under a non-transferable, non-sublicensable, non-exclusive license to use the Learning Materials as set out herein. This license shall only allow employees and contractors of Customer to use the Learning Materials for the limited purpose of training such individuals to use Micro Focus products for the internal business purposes of the Customer.
4. **Copyright.** Micro Focus retains full ownership of the copyright to all Learning Materials. The Customer may only use the Right to Copy or Right to Modify with the explicit permission of Micro Focus, which is only granted by a signed and fully paid up Order for the Learning Materials. Subject to (i) Customer's payment of all applicable fees for the Learning Materials provided to Customer, and (ii) rights of Micro Focus and third parties in the Learning Materials and in all independently developed or pre-existing intellectual property, Customer shall own the discrete components of permitted modifications to Learning Materials that contain confidential information of Customer or are otherwise expressly specified in the Learning Materials Data Sheet to belong to Customer.
5. **Versions.** When a Customer purchases Learning Materials, the Customer is granted a license to the version of the Learning Materials that they received as detailed on the applicable Order.