

# Micro Focus Education Services Terms

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

## 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, and sequence of the Education Services.

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

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

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

- “**Certifications/Accreditations**” are official records that certify that a person has received specific Education 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, interactive training by ART (“ITART”) and other training.
- “**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.

“**Flexible Credit**” is a currency available from Micro Focus that can be used to enroll in and consume Education Services as specified in these Terms.

“**Micro Focus**” or “**our**” means the Micro Focus legal entity authorized to sell Education Services where the Customer is located.

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

## 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 Education 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 Education Services commences on the date specified by Micro Focus in the confirmation notice.

## Payment

### Pricing and Payment Terms

Micro Focus may charge separately for reasonable out-of-pocket expenses, such as travel expenses incurred in providing Education 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 Education 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 Education Services (e.g., the quantity of Flexible Credits required to register for Education Services). Any such change will not affect Education Services for which the Customer has already registered.

### Entitlement

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

## **Cancellation of Education Services; Reallocation; Certificates**

### **Cancellation by Micro Focus**

Micro Focus will use reasonable efforts to give notice of cancellation of any Education Services in which Customer is enrolled. Micro Focus reserves the right to cancel Education Services for any reason, including failure to achieve a minimum required attendance. In addition, all Education Services is subject to schedule changes. If Flexible Credits were used to register for Education Services cancelled by Micro Focus, the Flexible Credits will be returned to the Customer's account and the original Flexible Credit expiration date will apply except that, if the cancellation by Micro Focus occurs less than 30 days prior to the original Flexible Credit expiration date, Micro Focus will work with the Customer to allow the Flexible Credits to be used on a mutually agreeable date towards payment for future Education 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 Education 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 Education Services or (ii) Students fail to attend the registered class for any reason ("no-shows"). For those Customers who cancel or reschedule ten (10) or more Business Days in advance of the scheduled training, the applicable Flexible Credits will be returned to the Customer account (subject to applicable Flexible Credit expiration date). Education Services may not be cancelled once the Entitlement Code has been delivered. All cancellation/rescheduling notices must be in writing.

### **Flexible Credit Entitlement Reallocation**

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

- Student changes before class delivery. Micro Focus must be notified 10 days in advance of class start date to make the appropriate adjustments.
- 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 Education 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 Education 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.

### **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.

## **Usage of Micro Focus Education Services**

### **Named User**

All Education 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 Education 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 Education 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's website at [www.microfocus.com/about/legal/#your\\_privacy](http://www.microfocus.com/about/legal/#your_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.

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### **Internal Training Purposes Only**

The end-user Customer may use Education 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 Education Services ("Authorized Duration"). The Authorized Duration of specific Education Services is separate and distinct from the validity and expiration of the Flexible Credits.

### **Acceptance**

Acceptance of Education Services will occur upon the Micro Focus' completion of delivery. For the avoidance of doubt, completion of delivery applies to each delivered element of Education 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.

### **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 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 Education 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.

#### **Limited Infringement Defense**

Micro Focus will defend and/or settle any claims against the Customer that allege that Education 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 Education Services. Micro Focus is not responsible for claims resulting from any unauthorized use of Education Services.

### **Limited Warranty and Disclaimer**

Micro Focus warrants that all Education Services will be provided in a commercially reasonable and workmanlike manner. Other than as expressly set forth herein, Micro Focus Education Services are provided "AS IS" without warranty of any kind (e.g., without warranty as to the suitability or quality of the Education Services) and expressly disclaims all liability for anything done or omitted in reliance upon the Education Services. Customer has sole responsibility for fulfilling any requirements or accomplishing any objectives for which the Customer purchased any Education 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.

### **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.

### **General Terms**

#### **Education Services Delivered Online**

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

## This document pertains to Education services for software products and support offered by Micro Focus International plc.

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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 Education 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 Education 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's rights regarding the use of sub-contractors, 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 Education 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.

Learn more at  
[www.microfocus.com/training/](http://www.microfocus.com/training/)