

1. TERMS AND CONDITIONS

- 1.1. To the extent that these standard terms and conditions (a) form part of an executed procurement agreement (such as a master agreement) between Micro Focus and the person or entity identified as the supplier (“**Supplier**”), then the “**Contract**” shall mean that executed agreement including these standard terms and conditions, any applicable attachments to it, any applicable Micro Focus Purchase Order (“**Order**”), and any statement of work (“**SOW**”) agreed between the parties; or (b) are referenced or otherwise attached to an Order then, unless such Order is issued pursuant to an executed procurement agreement between the Micro Focus and Supplier, the “**Contract**” shall mean the Order and any attachments to it; with respect to the products (“**Products**”) and/or services (“**Services**”) specified therein. No terms or conditions endorsed upon, delivered with or contained in Supplier’s quotation or acceptance of the Order, shall form part of the Contract unless expressly agreed in writing by Micro Focus, with such agreement having to contain the following specific words that “Micro Focus has expressly agreed that the terms of this document will override the terms of the previously agreed Contract between the parties” before it can be treated as effective. No waiver of a term or condition, or modification of the Order, shall be binding on either party unless in writing and signed by an authorized representative of each party.
- 1.2. The parties agree that Micro Focus may permit other Micro Focus group companies to use or benefit from the use of the Products and/or Services without the consent of Supplier and without payment of any additional fees.
- 1.3. The Order constitutes an offer by Micro Focus to purchase the Products and/or Services in accordance with these terms and conditions, and it shall be deemed accepted by Supplier upon the earlier of: (a) Supplier issuing written acceptance of the Order; or (b) any act by Supplier consistent with fulfilling the Order.
- 1.4. In the case of inconsistency or conflict between these terms and conditions and conditions of any Purchase Order and/or Statement of Work, the provisions of the Purchase Order and/or Statement of Work will prevail.

2. FINANCIAL TERMS

- 2.1. Price & Taxes. The price of the Products and/or Services shall be stated on the Order. If pricing is not stated on the Order or in an executed procurement agreement, then Supplier’s pricing shall not exceed the lowest prices charged by Supplier to other similarly situated customers. Unless otherwise stated, all fees, charges and any disbursements stated are deemed to be inclusive of any applicable freight charges, VAT, GST, Sales Taxes, Use Taxes, DSTs, Duties and / or any other similar applicable taxes. Micro Focus will pay any applicable VAT, GST, Sales Taxes, Use Taxes, DSTs, Duties and / or any other similar applicable taxes on provision of a valid tax invoice from Supplier. Supplier will not invoice or otherwise attempt to collect from Micro Focus any taxes with respect to which Micro Focus has provided Supplier with (i) a valid resale or exemption certificate, (ii) evidence of direct payment authority, or (iii) other evidence, reasonably acceptable to Supplier, that such taxes do not apply. Supplier is responsible for providing Micro Focus with all tax registration numbers, including copies of registration certificates, as applicable. No variation in the price nor extra charges shall be accepted by Micro Focus unless formally agreed in writing.
- 2.2. Withholding Taxes. Where applicable, Micro Focus is responsible for withholding WHT, WHV, VWH and / or any other similar applicable taxes on payments to Supplier. Such amounts will be deducted from the agreed prices, as applicable. Where applicable, Micro Focus will apply the lowest possible withholding rate i.e., taking into account available tax treaties, on receipt of a valid residency certificate from Supplier, as may be required to support a lower tax rate. Micro Focus will, on request, provide Supplier with copies of certificates proving that tax amounts withheld were paid to the applicable tax authorities in accordance with the applicable laws.
- 2.3. Invoicing. Except as may be prohibited by Applicable Laws, or as may be expressly agreed by Micro Focus, Supplier will implement an electronic invoicing process, as required by Micro Focus and at Supplier’s sole expense, to submit its invoices electronically using Micro Focus’ then current chosen third party service provider platform and in the electronic format specified by Micro Focus or such third-party service provider, as applicable. Supplier acknowledges and agrees that use of such process may entail disclosure of Supplier information to the applicable third party service provider (including information about the purchasing relationship between Micro Focus and Supplier), provided that any such service provider is bound by obligations of confidence in respect of Supplier’s information substantially similar and no less restrictive to those applicable to Micro Focus under the Contract. If Supplier fails to properly implement the above electronic invoicing process within a reasonable time (not to exceed ninety (90) days) after Micro Focus’ initial request, Micro Focus may, without incurring any liability in that respect, withhold payment on any invoice not received electronically until such time as Supplier submits the invoice electronically in accordance with these requirements. For the purposes of the Contract, “**Applicable Laws**” means all constitutions, laws, statutes, codes, orders, judgments, rules, regulations, permits and legally binding requirements of all federal, country, international, state and local governmental authorities applicable to either party’s performance under the Contract.
- 2.4. Payment Terms. Unless otherwise agreed to by Micro Focus, payments will be issued seventy five (75) days after the receipt of a valid invoice. Upon request by Micro Focus, Supplier will submit supporting documentation in a form satisfactory to Micro Focus and in detail sufficient for Micro Focus to identify the Products and/or Services rendered and the costs and expenses incurred in the receipt of Products or performance of the Services. Any prompt payment discount (if applicable) will be calculated from the date that Micro Focus receives a conforming invoice. Unless otherwise stated in the Order, or as otherwise agreed by Micro Focus, payment will be in U.S. dollar (USD) currency. Payment will not constitute acceptance of the Product or Services nor impair Micro Focus’ right to question the Product provided and/or Services performed. Acceptance shall occur when Micro Focus deems the Products and/or Services meet any specified criteria. Micro Focus, at its sole option, and without prior notice to Supplier, shall have the right to setoff and/or deduct from any Supplier invoice any credits, refunds and/or claims of any kind due from Supplier to Micro Focus. In no event may Supplier submit invoices, including any corrected or revised invoices, later than ninety (90) days after the date on which an invoice may first be submitted, and timely submission is a pre-condition to any Micro Focus payment obligation. If any amount claimed by Supplier in any invoice is disputed by Micro Focus, the parties will negotiate in good faith to resolve the dispute.
- 2.5. Late Payment. If the Products and/or Services are purchased in any country other than North America and any sum under the Contract is not paid when due then that sum shall bear interest from the due date until payment is made in full, both before and after any judgment, at two percent (2%) per annum above the Bank of England base rate from time to time. Supplier is not entitled to suspend deliveries of the Products and/or Services as a result of any sums being outstanding.
- 2.6. Expenses. Unless otherwise expressly provided in the Order, Micro Focus will not reimburse Supplier for any expense incurred by Supplier unless the expense is reasonable, pre-approved by Micro Focus in writing before being incurred, and itemized on an invoice within sixty (60) days of the date on which the expense was originally incurred.

3. SHIPMENT AND DELIVERY

- 3.1. Late Delivery. Time shall be the essence in respect of delivery of the Products and/or Services. Supplier shall give Micro Focus prompt notice of any prospective failure to ship Products or provide Services on the agreed delivery date, which shall be as specified in the Order (or, if not date is specified, within five (5) days of the Order date) or as otherwise agreed between the parties (the “**Delivery Date**”).

- 3.2. Instalments. Where Micro Focus agrees in writing to accept delivery of Products and/or Services by instalments, the Contract shall be construed as a single contract in respect of each instalment. Nevertheless, failure by Supplier to deliver any one instalment shall entitle Micro Focus at its option to treat the whole Contract as repudiated.
- 3.3. Portion of Products/Services Available. If only a portion of Products and/or Services is available for shipment or performance to meet the Delivery Date, Supplier shall promptly notify Micro Focus and proceed unless otherwise directed by Micro Focus. Supplier shall be responsible for any cost increase in the shipment of Products due to its failure to meet the Delivery Date and/or if such method does not comply with Micro Focus' shipping instructions.
- 3.4. Unloading Products. Supplier shall unload the Products at its own risk as directed by Micro Focus. Unless otherwise stipulated by Micro Focus in the Order, deliveries shall only be accepted by Micro Focus during its normal business hours.
- 3.5. Delivery Note. Supplier shall ensure that each delivery is accompanied by a delivery note which shows, amongst other things, the Order number, date of Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered. Any delivery which is not accompanied by a delivery note in accordance with this clause may, at Micro Focus' discretion, be rejected without liability or penalty on the part of Micro Focus. In the case of rejection of the delivery by Micro Focus, Supplier shall, at its own expense, promptly remove and recover all Products which were the subject of the rejected delivery.
- 3.6. Packaging. All Products shall be packaged by Supplier so as to ensure that they will be in good condition upon arrival at their destination. If Supplier requires Micro Focus to return any packaging material to Supplier, that fact must be clearly stated on the delivery note delivered to Micro Focus and any such packaging material shall only be returned to Supplier at the cost of Supplier. Supplier will comply with Micro Focus' Global Trade and Logistics Requirements ("TLR") and Micro Focus' Environmental Packaging requirements set forth in the Micro Focus' Supplier Handbook section on the Micro Focus' Vendor Portal (currently located at <https://www.microfocus.com/en-us/partners/vendor-portal>). Any cost or expense incurred by Micro Focus due to Supplier's failure to comply with Micro Focus' TLR and Environmental Packaging requirements shall be the sole responsibility of Supplier.
- 3.7. Excess Quantities. If the Products are delivered to Micro Focus in excess of the quantities ordered, Micro Focus shall be entitled to reject the excess Products and it shall not be bound to pay for the excess, and any excess shall be and shall remain at Supplier's risk and it shall be available for collection at Supplier's expense within three (3) months. Thereafter, Micro Focus may dispose of such excess Products at Supplier's expense without any liability in that respect.
- 3.8. Acceptance. Micro Focus shall not be deemed to have accepted the Products until it has had at least seven (7) days to inspect them following receipt of delivery.
- 3.9. Services. Supplier shall meet the agreed completion date and all other applicable dates for the performance of the Services stated in the Order, or any agreed SOW attached to or clearly referred to in the Purchase Order (as applicable), which sets out the Services to be performed by Supplier.
- 3.10. Risk. The Products shall remain at the risk of Supplier until delivery to Micro Focus in the manner prescribed by this clause 3 is complete (including unloading and stacking) at which point title and risk in the Products shall pass to Micro Focus (save where Micro Focus rejects the Products in accordance with clause 3.5).
- 3.11. Trade Controls. Micro Focus and Supplier will comply with all applicable export, import and trade-related laws and regulations of the United States and other nations. To this effect, Supplier warrants that: (i) if necessary and upon Micro Focus' request, it will provide Micro Focus with technical specifications concerning commodities, software, technology or services covered by the Contract sufficient for Micro Focus to determine the appropriate export and import classification of such items under applicable regulations; (ii) to the best of Supplier's knowledge, Supplier is not listed on any U.S. Government international trade sanctions lists and that Supplier will give immediate notice to Micro Focus in the event that it is so listed; and (iii) Supplier agrees that before releasing, transferring, or exporting any restricted products, software, technology, technical data or technical assistance to Country Groups D:1, E:1 and E:2 as identified in Supplement No. 1 to Part 740 of the U.S. Export Administration Regulations, and posted in the Vendor Portal (see <https://www.microfocus.com/en-us/partners/vendor-portal>): (i) Supplier will obtain any required US government authorization; and (ii) if any such restricted software, technology, technical data or technical assistance is provided by Micro Focus, Supplier will obtain written authorization from Micro Focus, and (iii) Supplier agrees to be the exporter of record and assumes responsibility in complying with all applicable export laws including U.S. export and re-export laws and regulations.
- 4. CHANGES**
- 4.1. Change or Cancellation. Micro Focus may, without charge, change or cancel any portion of the Order including, without limitation, quantity required, any designs or specifications, prior to shipment provided Micro Focus gives Supplier notice. If Micro Focus changes or cancels any portion of the Order as provided above, Supplier shall provide Micro Focus with a written claim for adjustment prior to shipment which contemplates Supplier's actual costs incurred as a direct result of such change or cancellation which are not recoverable by either: (i) the sale of Products or provision of Services to other parties within a reasonable time or (ii) the exercise by Supplier, in a commercially reasonable manner, of other mitigation measures. If the parties are unable to agree on the adjustment amount, Micro Focus may, without any liability to Supplier, terminate the Order as to all Products and/or Services affected.
- 4.2. No Process or Design Changes. Supplier shall not make any process or design changes affecting Products or Services without Micro Focus' prior written consent.
- 4.3. Forecasts. Any forecasts provided by Micro Focus shall not constitute a commitment of any type by Micro Focus.
- 4.4. Discontinuance of Products. Supplier shall provide at least twelve (12) months written notice to Micro Focus prior to Supplier's discontinuance of manufacturing any Products. Such notice shall include, at a minimum, Micro Focus part numbers, substitutions, and last date that orders will be accepted for such Products.
- 5. QUALITY**
- 5.1. Supplier shall maintain a quality system to ensure that all Products and/or Services set forth in the Order, or otherwise supplied to Micro Focus, will meet the standards specified in Supplier's quality system. If requested, Supplier shall provide Micro Focus with a copy of Supplier's quality system and supporting test documentation.
- 6. WARRANTY**
- 6.1. Warranties. Supplier warrants that all Products and Services will (i) be manufactured, processed, and assembled by Supplier or its authorized subcontractors in conformance with all Applicable Laws (including, without limitation, those in relation to health, safety and environmental standards); (ii) be free from malware, known security vulnerabilities, defects in design, material and workmanship; (iii) conform to agreed specifications, including any requirements and certifications regarding any rules, regulations or laws pursuant to the return of hazardous material; (iv) be new and contain first-quality components and parts; (v) be free and clear of all liens, encumbrances, restrictions, and claims against title or ownership; and (vi) not infringe any patent, trademark, copyright or other intellectual property right of a third party; (vii) in respect of Services, be performed in a professional manner by sufficiently experienced and qualified personnel; (viii) to the extent that Supplier performs any of the Services at the premises of Micro Focus, a third party or a customer location (a "**Relevant Site**"), ensure

that (in performing its obligations under the Order) it does not cause any disturbance or damage to operations and property of Micro Focus at the Relevant Site; (ix) comply with Micro Focus' conditions in relation to any Relevant Site (including but not limited to health and safety conditions, safety management systems, hygiene policies and security policies) and Micro Focus' code of conduct and code of ethics made available to Supplier from time to time; (x) assist Micro Focus (and any person nominated by Micro Focus) in the investigation of any accident or incident or the resolution of any dispute, which assistance shall include, but not be limited to, making personnel available for interview, providing access to documents and records and providing information reasonably requested by Micro Focus; (xi) notify Micro Focus as soon as it becomes aware of any breach of Applicable Laws or any health and safety hazard or issues which arises in relation to the Products and/or Services (which notification shall not release Supplier from any liability and/or obligation in respect of such breach, hazard or issue); (xii) reasonably cooperate with Micro Focus in all matters relating to the Services or supply of Products; and (xiii) in respect of the Products, ensure that they be accompanied by all appropriate information, warnings, instructions and documentation in relation to the safe use, handling, storing, operation, consumption, transportation and disposal of any products or parts or materials.

- 6.2. **Survival of Warranties.** Except for non-infringement in clause 6.1 (vi) above, which shall survive indefinitely, all other warranties specified herein shall: (i) survive any inspection, delivery, acceptance, or payment by Micro Focus (ii) be in effect for the longer of Supplier's normal warranty period or the one (1) year period following the date of acceptance of the Products and/or Services by Micro Focus; and (iii) extend to Micro Focus and its successors, assigns, and customers.
- 6.3. **Epidemic Failure Warranty.** Supplier warrants all Products against Epidemic Failure for a period of three (3) years after Micro Focus' acceptance. Epidemic Failure means the occurrence of the same failure, defect, or nonconformity with an Order in two percent (2%) or more of Products within any three (3) month period.
- 6.4. **Micro Focus' Right to Inspect.** Micro Focus may, at any time, inspect the Services or Products, and associated manufacturing processes. Inspection may occur at Supplier's facility, plant (or the facility and/or plant of an approved subcontractor). Supplier will inform its subcontractors of Micro Focus' right to inspect and shall secure that right for Micro Focus if requested by Micro Focus.

7. **DEFAULT**

- 7.1. **Remedies.** If Supplier fails to perform or breaches any provision of the Order, or any other order or agreement with Micro Focus, Micro Focus may:- (a) return (at Supplier's risk and expense) any Products or Services that are not in conformity with the requirements of the Order; or (b) terminate the whole or any part of the Order, unless, at Micro Focus' request, Supplier cures the breach within thirty (30) days after receipt of Micro Focus' notice of breach. The term "**breach**" shall include, without limitation, any: (i) proceeding, whether voluntary or involuntary, in bankruptcy or insolvency by or against Supplier; (ii) appointment, with or without Supplier's consent, of a receiver or an assignee for the benefit of creditors; (iii) failure to provide Micro Focus with reasonable assurances of performance on Micro Focus' request; or (iv) other failure to comply with the Order. In the event that Micro Focus terminates the Order in whole or in part as provided in this clause 7.1, Micro Focus may procure Products or Services similar to the Products or Services as to which the Order is terminated, and Supplier shall promptly reimburse Micro Focus upon demand for all reasonable additional costs incurred in that respect.
- 7.2. **Epidemic Failure Remedy.** If an Epidemic Failure occurs, all costs, including but not limited to, replacement Products, parts, upgrades, materials, labor, transportation and inventory replacement arising from an Epidemic Failure shall be borne by Supplier, regardless of whether Micro Focus initiates a field stocking recall or customer based recall or retrofit, including Products in distributor inventory and Micro Focus' installed base. Supplier, at its expense, will ensure that such Products, parts or upgrades have the highest shipping priority.

8. **LICENSE GRANT**

- 8.1. **Scope.** Supplier grants to Micro Focus (and, to the extent required by Micro Focus, its Affiliates) a perpetual, irrevocable, transferable, sub-licensable, worldwide, royalty-free license to utilize the Products, deliverables and documentation (including but not limited to the right to load, execute, store, transmit, display, or copy (for the purposes of loading, execution, storage, transmission or display)) for such purposes as Micro Focus shall require. For the purposes of the Contract, "**Affiliates**" means any entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such party, by way of majority stock ownership or the ability to otherwise direct or course the direction of the management and policies of such party, for so long as such control exists.
- 8.2. **Copies.** Micro Focus may make two (2) archival back-up copies, and two (2) off-site disaster-recovery copies, of any Products comprising of software (in source code and/or object code form) and two (2) copies of the documentation, and Micro Focus shall ensure that all such copies bear Supplier's proprietary notice where applicable. For the avoidance of doubt, such copies shall be the property of Micro Focus.
- 8.3. **Restrictions.** Micro Focus shall not (a) translate, disassemble, de-compile or reverse engineer the Products, or attempt to do so, except as permitted by Applicable Law; or (b) remove any proprietary marking or legend affixed to the Products, and Micro Focus shall reproduce all of the same in any whole or partial copy of the Products or any alternative or revision of them.
- 8.4. **Interface Data.** In the event that Micro Focus wishes to develop, operate, has developed or has operated any software, computer systems or other products not provided by Supplier for use or interoperation with the Products, Supplier shall, on request, provide to Micro Focus all source code, object code, program listings, flow-charts, diagrams, design documentation and interface information that could assist in such use or inter-operation ("**Interface Data**"). Micro Focus shall be permitted to use, reproduce, modify and enhance the Interface Data and, to provide the Interface Data to, and to appoint a third party on behalf of Micro Focus to, use, reproduce, modify and enhance the Interface Data and to carry out such development and operation, provided that such thirdparty is under confidentiality obligations with Micro Focus.
- 8.5. **No Transfer.** Save for the licenses granted in clause 8.1, this clause 8 does not constitute a transfer of Rights (as defined below) belonging to Micro Focus and all Rights belonging to a party prior to the signing of the Order shall remain vested in that party.

9. **INTELLECTUAL PROPERTY RIGHTS**

- 9.1. "**Rights**" means registered or unregistered patent rights, copyrights, trademark and design rights, utility model rights, database rights, know-how, and other intellectual property rights as may exist from time to time in any part of the world.
- 9.2. **Designs.** If Products are manufactured or supplied or Services are rendered according to Micro Focus' design or specification (the "**Micro Focus Designs**"), or where Supplier has provided any design or development services to Micro Focus (the "**Commissioned Designs**"), the Rights in relation to Micro Focus Designs and the Commissioned Designs together with any other information, knowledge, idea, design, material or invention, and any expression of any idea created by Supplier (or its agents or employees) in connection with the Order (the "**Developments**") shall be the exclusive property of Micro Focus.

- 9.3. **Disclosure.** Supplier shall fully disclose all Developments to Micro Focus and shall not use the Developments for its own purposes or those of any third party nor disclose the Developments without the prior written consent of Micro Focus. Supplier, at the expense of and by agreement with Micro Focus, will take all measures which may be necessary to vest ownership of all Rights in the Developments in Micro Focus or its nominee and shall assist Micro Focus in establishing and protecting such Rights, including if necessary doing all such acts and executing all such documents which Micro Focus deems necessary. To the extent permitted by Applicable Laws, Supplier shall waive or shall procure the waiver of moral rights in the Developments in relation to Micro Focus (and its successor) and any third party authorized to use the Rights by Micro Focus.
- 9.4. **No Violation.** Supplier warrants that no Rights (including any Rights belonging to any third party) are violated or infringed through the supply of any Products or the rendering of any Services by Supplier or through the use of such Products or Services. Supplier shall indemnify and keep indemnified Micro Focus on demand in respect of all Losses (as defined in clause 18.3 below) awarded against or incurred by Micro Focus in connection with any claim that the use or possession of any Products or Services supplied by or on behalf of Supplier infringes any Rights of any third party (an "IPR Claim").
- 9.5. **IPR Claims.** If any IPR Claim is made, or in Supplier's reasonable opinion is likely to be made, Supplier shall promptly and at its costs either:- (a) obtain for Micro Focus the right to continue using the relevant materials which were the subject of the IPR Claim; (b) modify or replace the infringing part of the materials so as to avoid the infringement or alleged infringement, but in such a way that it complies with the representations and warranties in the Order; or (c) if unable to replace or modify the infringing Products, refund in full all monies paid by Micro Focus for the infringing Products and pay all reasonable costs incurred by Micro Focus in replacing the infringing Products.
- 9.6. **Micro Focus Property.** All Micro Focus' Rights and all products, samples, documents and information provided by Micro Focus to Supplier (including copyright therein) shall remain the property of Micro Focus. Their use by Supplier shall be allowed only within the limits of the purpose of each Order or another written agreement between the parties.
- 9.7. **Removal of Micro Focus' Trademarks.** Supplier shall remove from all Products rejected, returned or not purchased by Micro Focus, Micro Focus' name and any of Micro Focus' trademarks, trade names, insignia, part numbers, symbols, and decorative designs, prior to any other sale, use, or disposition of such Products by Supplier.
- 9.8. **Retained Rights.** Each party will retain all right, title and interest in and to its own Pre-existing IPR irrespective of any disclosure of such Pre-existing IPR to the other party, subject to any licenses granted herein. For the purposes of the Contract, "**Pre-existing IPR**" means any intellectual property that has been conceived or developed by either party or any third party before Supplier provides the Products or renders any Services under the Order or that is conceived or developed at any time wholly independently of the deliverables.
- 9.9. **Pre-existing IPR.** Supplier will not use any Supplier or third party Pre-existing IPR in connection with the Order unless Supplier has the right to use it for Micro Focus' benefit. If Supplier is not the owner of such Pre-existing IPR, Supplier will obtain from the owner any rights as are necessary to enable Supplier to comply with the Order.
- 9.10. **Pre-existing IPR License Grant.** Supplier grants Micro Focus (and, to the extent required by Micro Focus, its Affiliates) a non-exclusive, royalty-free, worldwide, perpetual and irrevocable license in Supplier and third party Pre-existing IPR, to the extent such Pre-existing IPR is incorporated into a deliverable under the Order, with the license including the right to make, have made, sell, use, reproduce, modify, adapt, display, distribute, make other versions of and disclose the property and to sublicense others to do these things.
10. **INSURANCE**
- 10.1. Supplier will at all times insure, and keep itself insured, with a reputable insurance provider against all insurable liability that may arise in respect of the Contract and Supplier's liabilities hereunder.
11. **EMPLOYEES**
- 11.1. **Supplier Personnel.** Supplier will take reasonable steps to ensure the reliability, integrity, and trustworthiness of, and where required by Micro Focus conduct background checks consistent with Applicable Law on, all of Supplier's personnel engaged in the performance of Supplier's obligations under the Contract.
- 11.2. **Status.** Nothing in the Order shall be taken to mean that any individual employed or engaged in the provision of the Services or the supply of the Products by Supplier, or any of its subcontractors, is an employee, worker, officer or agent of Micro Focus. Supplier shall be solely responsible for all matters relating to the employment and/or engagement of such individuals including compliance with all Applicable Laws. Supplier will be responsible for all income tax, national insurance contributions or social security charges or similar statutory payments in relation to all such individuals and ensure that they are deducted and/or paid to the relevant authorities and/or such individuals (as the case may be).
- 11.3. **Claims.** Supplier shall indemnify Micro Focus against any costs, expenses, liabilities, damages and losses arising out of any claim, demand, action or proceeding made or brought by any of the individuals employed or engaged in the provision of the Services or supply of the Products which arises or is alleged to arise out of any act or omission of Supplier (or any of its agents or subcontractors). Supplier shall further indemnify Micro Focus for any liability for income tax, national insurance contributions and/or social security charges or similar statutory payments (or penalties or interests thereon) which may be found due from Micro Focus in respect of any individuals employed or engaged in the provision of the Services or the supply of the Products.
- 11.4. **Disclosure.** Supplier shall promptly, on Micro Focus' request, fully and accurately disclose to Micro Focus such details concerning the individuals employed or engaged in the provision of the Services or the supply of the Products and/or their terms and conditions of employment/engagement as Micro Focus may require from time to time.
12. **CONFIDENTIAL INFORMATION**
- 12.1. **Definition.** For the purposes of the Contract, "**Confidential Information**" shall mean all documentation, knowledge, information and material, including notes and reports incorporating such information, whether of a technical, commercial, operational or financial nature or otherwise relating in any manner to the business affairs of Micro Focus, including Micro Focus' Rights and Developments as defined in clause 9 (in whatever form and including, without limitation, business plans, research and development material, marketing strategies, specifications, processes, designs, drawings, initiatives and inventions) disclosed directly or indirectly by Micro Focus to Supplier or available or apparent to Supplier in the course of the Order except to the extent that such information is already known to Supplier or legitimately disclosed to Supplier by a third party or it otherwise legitimately enters the public domain.
- 12.2. **Obligation of Confidence.** Supplier shall keep in strict confidence all Confidential Information disclosed to Supplier by Micro Focus or its agents and Supplier shall restrict disclosure of such Confidential Information to such of its employees, agents or subcontractors as need to know the same for the purpose of discharging Supplier's obligations to Micro Focus and shall ensure that such employees, agents or subcontractors are subject to like obligations of confidentiality as bind Supplier.

13. PUBLICITY

13.1. Supplier shall not make or authorize any news release, advertisement, or other disclosure to any third party which shall deny or confirm the existence of the Order or reveal the terms of the Order without prior written consent of Micro Focus.

14. ACCESS TO INFORMATION SYSTEMS

14.1. Access, if any, to Micro Focus' computers, computer systems, communications systems and other information systems ("**Information Systems**") is granted solely to perform the Services under the Order and is limited to those specific Micro Focus Information Systems, time periods and personnel as are separately agreed to by Micro Focus and Supplier from time to time. Micro Focus may require Supplier's employees, subcontractors or agents to sign individual agreements prior to access to Micro Focus' Information Systems. Use of Micro Focus Information Systems during other time periods or by individuals not authorized by Micro Focus is expressly prohibited. Access is subject to Micro Focus business control and information protection policies, standards and guidelines as may be modified from time to time. Use of any other Micro Focus Information Systems is expressly prohibited. This prohibition applies even when a Micro Focus Information System that Supplier is authorized to access, serves as a gateway to other Information Systems outside Supplier's scope of authorization. Supplier agrees to access Information Systems only from specific locations approved for access by Micro Focus. For access outside of Micro Focus premises, Micro Focus will designate the specific network connections to be used to access Information Systems.

15. DATA SECURITY AND PRIVACY

15.1. DPA. Supplier will implement and maintain privacy and security measures to protect Micro Focus data, services and products in accordance with Micro Focus' current Data Privacy and Protection Agreement ("**DPA**") on the Vendor Portal (the latest copy of which is available at <https://www.microfocus.com/media/documentation/data-privacy-and-protection-agreement.pdf>). The DPA may be modified from time to time, and any terms not defined within this document will rely on the applicable definition in the DPA.

16. GOVERNMENTAL COMPLIANCE

16.1. General. Supplier will at all times comply with all federal, state, local and foreign laws, rules and regulations applicable to its obligations under the Order and, if applicable, its manufacture of Products. Supplier shall furnish to Micro Focus all information required to enable Micro Focus to comply with such laws, rules, and regulations in its use of the Products and Services or reasonably requested by Micro Focus to confirm compliance with such laws, rules and regulations or with the provisions of the Order.

16.2. Security. Without limiting clause 16.1, Supplier warrants that in all countries in which Supplier does business, its operations and shipments comply with all Applicable Laws regarding security. To the extent applicable to Supplier's business, Supplier shall meet or exceed security requirements reasonably designated by Micro Focus. Supplier and Micro Focus may perform a formal, documented security compliance audit on an annual basis, with the first audit taking place upon Micro Focus' request at any time after Supplier's acceptance of the Order. Supplier shall immediately notify Micro Focus in writing of any area where it fails to meet the Micro Focus security requirements. Upon notification of Supplier's failure to comply, whether by Supplier or through an audit or Micro Focus inspection, Micro Focus may either terminate the Order or grant a waiver of the requirement for a limited time to allow Supplier to become compliant.

16.3. U.S. Federal Procurement Requirements. Without limiting clause 16.1, in light of Micro Focus' status as a U.S. Federal contractor and subcontractor, all applicable procurement regulations required by federal statute or regulation to be inserted in contracts or subcontracts (including, without limitation, those that may be imposed pursuant to the Federal Acquisition Regulation) shall apply to the Order and such provisions shall have the same force and effect as if they were restated here in their full text.

17. SOCIAL AND ENVIRONMENTAL RESPONSIBILITY

17.1. Supplier warrants that in all countries in which Supplier and, to Supplier's information and belief, Supplier's authorized subcontractors do business, its and their operations comply with all Applicable Laws governing labor and employment, employee health and safety, protection of the environment, and ethical practices. Supplier will comply with Micro Focus' Supplier Code of Conduct (the latest copy of which is available at the following link: <https://www.microfocus.com/en-us/partners/vendor-portal>), including the establishment of management systems as described therein.

18. MISCELLANEOUS.

18.1. Assignment. Notwithstanding anything to the contrary in the Contract and except as set forth in this clause 18.1, neither party may, directly or indirectly, in whole or in part, neither by operation of law or otherwise, assign or transfer the Contract or delegate any of its obligations under the Contract without the other party's prior written consent. Any attempted assignment, transfer or delegation without such prior consent will be void and unenforceable. Notwithstanding the foregoing, Micro Focus, or its permitted successive assignees or transferees, may assign or transfer the Contract or delegate any rights or obligations hereunder without consent:- (a) to any of its Affiliates; or (b) in connection with a merger, reorganization, transfer, or sale of all or some assets or product lines, divestiture of one or more business units, or change of control or ownership of Micro Focus, or its permitted successive assignees or transferees. In the event that during the term of the Contract, Micro Focus divests itself of less than all of its assets or product lines, then the resulting divested entity or entities, and any successor in interest to such entities may also receive the benefits and rights that Micro Focus does under the Contract, including but not limited to any entitlement to rate discounts the same as if it were still part of Micro Focus, and the spending by Micro Focus and the divested entity or entities shall count towards any volume discount as if they remained one entity. Without limiting the foregoing, the Contract will be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

18.2. Choice of Law. The Contract shall be interpreted and governed by the laws of England, and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

18.3. Liability.

18.3.1. Losses. Supplier shall indemnify and keep micro focus indemnified on demand against all direct, indirect or consequential losses and/or liabilities (all of which terms include, without limitation, loss of profit, loss of business, deception of goodwill and like loss), damages, injury, claims, demands, actions, costs and expenses (including legal and other professional fees and expenses) (together the "losses") awarded against or incurred or paid by micro focus and/or its affiliates as a result of or in connection with (a) supplier's negligence, default or breach of contract; and (b) any claim made against micro focus and/or its affiliates in respect of any losses sustained by its employees or agents, contractors or by any customer or third party to the extent that such losses were caused by, relate to or arise from the products or the provision of the services as a consequence of a breach of contract or negligent performance or failure or delay in performance of the terms of the contract by supplier.

- 18.3.2. **Limitation.** Subject to clause 18.3.4, the aggregate liability of micro focus to supplier under or in connection with the contract, whether arising from negligence, breach of contract or otherwise shall not exceed an amount equal to the price paid or payable by micro focus to supplier for the relevant products and/or services under the order giving rise to such liability.
- 18.3.3. **Indirect loss.** Subject to clause 18.3.4, micro focus shall not be liable to supplier for any loss of (a) profit, goodwill, revenue, anticipated savings or any other like economic loss (whether direct or indirect); or (b) any indirect or consequential loss or damage, or loss of business opportunity whether arising from negligence, breach of contract or otherwise.
- 18.3.4. **Exclusions.** Nothing in the contract excludes or limits: - (a) either party's liability for death or personal injury arising from its negligence or that of its employees, agents or subcontractors; (b) either party's liability for fraud; (c) micro focus' liability to pay the price pursuant to clause 2.5; or (d) supplier's liability under any indemnities contained within the contract.
- 18.4. **Non-Restrictive Relationship.** Micro Focus shall not be precluded from independently developing, acquiring from other third parties, distributing or marketing other Products or Services which may perform the same or similar functions as the Products or Services provided under the Contract.
- 18.5. **Waiver.** Neither party's failure to exercise or delay in exercising any of its rights under the Contract shall constitute or be deemed to constitute a waiver, forfeiture or modification of such rights. Waiver of a breach of the Contract shall not be deemed a waiver of any future breach. Any waiver must be in writing and be signed by each party's authorized representative.
- 18.6. **Remedies.** Each right or remedy of Micro Focus under the Contract is without prejudice to any other right or remedy of Micro Focus whether under the Contract or not and is in addition to any conditions implied in favour of Micro Focus by Applicable Law.
- 18.7. **Illegality.** If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 18.8. **Third Parties.** Other than in respect of any Micro Focus Affiliates, the parties do not intend that any term of the Contract shall be enforceable by any person that is not a party to it.
- 18.9. **Entire Agreement.** The Contract constitutes the entire agreement between Supplier and Micro Focus relating to the sale and purchase of the Products and/or Services. Each party acknowledges that in entering into the Contract it has not relied on representations, agreements, warranties or other assurances (other than those repeated in the Contract) and waives all rights and remedies which but for this clause 18.9 would be available to it.
- 18.10. **No Partnership etc.** Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorize either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 19. ANTI-CORRUPTION.**
- 19.1. **Relevant Requirements.** Supplier shall, and shall procure that persons associated with it or persons who are performing Services, or providing Products in connection with the Contract, shall: (a) comply with all Applicable Laws relating to anti-bribery and anti-corruption ("**Relevant Requirements**"), including but not limited to: (i) the UK Bribery Act 2010; (ii) the Foreign Corrupt Practices Act 1977; and (iii) the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on December 17, 1997, which entered into force on February 15, 1999, and the Convention's Commentaries; (b) not engage in any activity, practice or conduct which would constitute an offence under Sections 1, 2 or 6 of the UK Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; (c) comply with Micro Focus' anti-bribery policy annexed to the Contract or as otherwise provided or made available to Supplier (as Micro Focus may update from time to time) (the "**Relevant Policies**"); (d) not do, or omit to do, any act that will cause or lead Micro Focus to be in breach of any of the Relevant Requirements or Relevant Policies; (e) promptly report to Micro Focus any request or demand for any undue financial or other advantage of any kind received by Supplier in connection with the performance of the Contract; (f) have and shall maintain in place through the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the UK Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 19.1(b), and will enforce them where appropriate; (g) if requested, provide Micro Focus with any reasonable assistance, at Micro Focus' reasonable cost, to enable Micro Focus to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with any of the Relevant Requirements or Relevant Policies; (h) within one (1) month of the date of the Contract, and annually thereafter, certify to Micro Focus in writing signed by an officer of Supplier, compliance with this clause 19 by Supplier and all persons associated with it or other persons who are performing Services or supplying Products in connection with the Contract. Supplier shall provide such supporting evidence of compliance as Micro Focus may reasonably request.
- 19.2. **Compliance.** Supplier warrants and represents that: (a) its responses to Micro Focus' anti-bribery and anti-corruption due diligence questionnaire (if applicable) are complete and accurate; (b) neither Supplier nor any of its officers, employees or other persons associated with it: (i) has been convicted of any offence involving bribery or corruption, fraud or dishonesty; (ii) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Relevant Requirements; or (iii) has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programs or other government contracts; (c) none of the officers or employees of Supplier or any person associated with it or any other person who is performing Services or providing Products in connection with the Contract is a foreign public official; and (d) no foreign public official owns a direct or indirect interest in Supplier or any person associated with it or any other person for whom Supplier is responsible under clause 19.2(c) and no foreign public official has any legal or beneficial interest in any payments made by Micro Focus under the Contract.
- 19.3. **Notification.** Supplier shall promptly notify Micro Focus if, at any time during the term of the Contract, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 19.2 at the relevant time.
- 19.4. **Default.** Breach of this clause 19 shall be deemed a material default under clause 21.2 and Micro Focus shall be entitled to terminate the Contract without any liability to Supplier in accordance with such clause and, in particular, Supplier shall not be entitled to claim compensation or any further remuneration, regardless of any activities or agreements with additional third parties entered into before termination.
- 19.5. **No Obligation.** Regardless of any other provisions in the Contract, Micro Focus shall not be obliged to do, or omit to do, any act which would, in its reasonable opinion, put it in breach of any of the Relevant Requirements.
- 19.6. **Remedy for Breach.** Supplier shall indemnify Micro Focus against any losses, liabilities, damages, costs (including, but not limited to, legal fees) and expenses incurred by, or awarded against, Micro Focus as a result of any breach of this clause 19 by Supplier.

20. ANTI-SLAVERY.

20.1. Supplier hereby undertakes, warrants and represents that:

20.1.1. it shall comply with all applicable anti-slavery and human trafficking laws, statutes and regulations from time to time in force in any relevant jurisdiction including, but not limited to, the UK's Modern Slavery Act 2015 ("**Anti-Modern Slavery Laws**"), as well as Micro Focus' anti-slavery and human trafficking statement, as published on Micro Focus' UK website ("**Modern Slavery Act Statement**");

20.1.2. neither Supplier nor any of its officers, employees, agents or subcontractors has: (i) committed an offence under any Anti-Modern Slavery Laws ("**Modern Slavery Offence**"); or (ii) been notified that it is subject to an investigation relating to an alleged Modern Slavery Offence or prosecution under Anti- Modern Slavery Laws; or (iii) awareness of any circumstances within its business or supply chain which are reasonably likely to give rise to an investigation relating to an alleged Modern Slavery Offence or prosecution under Anti-Modern Slavery Laws.

20.1.3. its responses to Micro Focus' modern slavery and human trafficking due diligence questions are complete and accurate.

20.1.4. Supplier shall take all reasonable steps to ensure that slavery, servitude, human trafficking, forced or compulsory labour, and/or child labour do not take place in its supply chains or in any part of its business (including making all necessary enquiries with its suppliers and, to the extent reasonable, other parties in the supply chain).

20.1.5. Supplier shall notify Micro Focus immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of Supplier's obligations under this clause 20. Such notice will set out full details of the circumstances concerning the breach or potential breach of Supplier's obligations.

20.1.6. In the case of breach of any of the provisions of this clause 20, Micro Focus may suspend or terminate the Contract (and/or any Order under it) at any time without notice, liability, or indemnity. This provision will survive termination of the Contract (and/or Order) for any reason.

21. TERMINATION.

21.1. Events of Termination. Without prejudice to its other rights or remedies, Micro Focus shall have the right at any time by giving notice in writing to Supplier to terminate the Contract and/or any Order in whole or in part forthwith: (a) if any distress, execution or other process is levied upon any of the assets of Supplier; (b) on Supplier being unable to pay its debts or the commencement of, or any application, order, resolution or appointment being made for, in respect of Supplier, a distress, execution, composition or arrangement with creditors, insolvency proceedings, winding up, dissolution, administration, liquidation, receivership (administrative or otherwise), bankruptcy, the suspension of payments, any form of seizure not lifted within two (2) months, a moratorium of indebtedness or any similar proceedings in any jurisdiction; (c) if there is a change in the ownership, control or management of Supplier that Micro Focus considers will materially affect the interests of Micro Focus; or (d) if any other event giving rise to a right of Micro Focus to terminate under another clause in the Contract occurs.

21.2. Termination for Breach. Either party may terminate the Contract, any SOW and/or Order hereunder, by written notice to the other if the other party breaches (i) any provision of such SOW and/or Order(s) or (ii) any provision of the Contract with respect to such SOW and/or Order(s), and in either case such breach is not cured within thirty (30) days, after written notice thereof is received by the breaching party.

21.3. Termination for Convenience. Micro Focus reserves the right to terminate the Contract or any SOW and/or Order(s), in whole or in part, without liability at any time, without cause, upon fourteen (14) days' prior written notice to Supplier.

21.4. Consequences of Termination. Upon termination of any SOW and/or Order(s), Supplier will immediately provide Micro Focus with any and all work in progress or completed prior to the termination date. As Micro Focus' sole obligation to Supplier resulting from such termination, Micro Focus will pay Supplier an equitable amount as determined by Micro Focus for the partially completed work in progress and the agreed to price for the completed Services and/or Deliverables provided and accepted prior to the date of termination.

21.5. Return of Materials. Upon termination of the Contract or completion of Supplier's performance under a SOW, whichever occurs first, Supplier will arrange for the prompt and safe return to Micro Focus and/or destruction of all confidential information, materials and/or tools provided by Micro Focus under the Contract, and, in the event that Micro Focus (i) requests such return be in an electronic format, to return the confidential information, materials and/or tools in an electronic format that is reasonably accessible by Micro Focus; or (ii) requests destruction, to promptly certify in writing to Micro Focus that such destruction has taken place.

21.6. Accrued Rights. The termination or expiry of the Contract or any Order shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force of any other conditions of the Contract which are expressly or by implication intended to come into force or continue to be in force on or after such termination or expiry.

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