

Agreement Number(s) where required:
HP:.....
Customer:.....
Effective Date (if applicable):.....
Term Length (if applicable):.....

HP DEUTSCHLAND GMBH CUSTOMER TERMS
(Version August 1, 2015)

- 1. Parties.** These terms represent the agreement (“**Agreement**”) that governs the purchase of products and services from the HP Deutschland GmbH (“**HP**”) by the Customer identified below (“**Customer**”).
- 2. Orders.** “**Order**” means the accepted order including any supporting material which the parties identify as incorporated either by attachment or reference (“**Supporting Material**”). Supporting Material may include (as examples) product lists, hardware or software specifications, standard or negotiated service descriptions, data sheets and their supplements, and statements of work (SOWs), published warranties and service level agreements, and may be available to Customer in hard copy or by accessing a designated HP website.
- 3. Scope and Order Placement.** These terms may be used by Customer either for a single Order or as a framework for multiple Orders. In addition, these terms may be used on a global basis by the parties’ “**Affiliates**”, meaning any entity controlled by, controlling, or under common control with a party. The parties can confirm their agreement to these terms either by signature where indicated at the end or by referencing these terms on Orders. Affiliates participate under these terms by placing orders which specify product or service delivery in the same country as the HP Affiliate accepting the Order, referencing these terms, and specifying any additional terms or amendments to reflect local law or business practices.
- 4. Order Arrangements.** Customer may place orders with HP through our website, customer-specific portal, or by letter, fax or e-mail. The order has to be accepted by HP. Where appropriate, orders must specify a delivery date. If Customer extends the delivery date of an existing Order beyond ninety (90) days, then it will be considered a new order. Customer may cancel a hardware Order at no charge up to five (5) business days prior to shipment date.
- 5. Prices and Taxes.** Prices will be as quoted in writing by HP or, in the absence of a written quote, as set out on our website, customer-specific portal, or HP published list price at the time an order is submitted to HP. Prices are exclusive of taxes, duties, and fees (including installation, shipping, and handling) unless otherwise quoted. If a withholding tax

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is required by law, please contact the HP order representative to discuss appropriate procedures. HP will charge separately for reasonable out-of-pocket expenses, such as travel expenses incurred in providing professional services.

6. **Invoices and Payment.** Customer agrees to pay all invoiced amounts within thirty (30) days of HP’s invoice date. HP may suspend or cancel performance of open Orders or services if Customer fails to make payments when due.
7. **Title.** Risk of loss or damage for hardware products will pass upon delivery to Customer or its designee. Title for hardware products will pass upon receipt of full payment.
8. **Delivery.** HP will use all commercially reasonable efforts to deliver products in a timely manner. HP may elect to deliver software and related product/license information including documentation by electronic transmission or via download.
9. **Installation.** If HP is providing installation with the product purchase, HP’s site guidelines (available upon request) will describe Customer requirements. HP will conduct its standard installation and test procedures to confirm completion.
10. **Support Services.** HP’s support services will be described in the applicable Supporting Material, which will cover the description of HP’s offering, eligibility requirements, service limitations and Customer responsibilities, as well as the Customer systems supported, and which will be made available by HP upon request.
11. **Eligibility.** HP’s service, support and warranty commitments do not cover claims resulting from:
 1. improper use, site preparation, or site or environmental conditions or other non-compliance with applicable Supporting Material;
 2. Modifications or improper system maintenance or calibration not performed by HP or authorized by HP;
 3. failure or functional limitations of any non-HP software or product impacting systems receiving HP support or service;
 4. malware (e.g. virus, worm, etc.) not introduced by HP; or
 5. abuse, negligence, accident, fire or water damage, electrical disturbances, transportation by Customer, or other causes beyond HP’s control.

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- 12. Professional Services.** HP will deliver any ordered IT consulting, training or other services as described in the applicable Supporting Material.
- 13. Professional Services Acceptance.** The acceptance process (if any) will be described in the applicable Supporting Material, will apply only to the deliverables specified, and shall not apply to other products or services to be provided by HP.
- 14. Dependencies.** HP’s ability to deliver services will depend on Customer’s reasonable and timely cooperation and the accuracy and completeness of any information from Customer needed to deliver the services.
- 15. Change Orders.** We each agree to appoint a project representative to serve as the principal point of contact in managing the delivery of services and in dealing with issues that may arise. Requests to change the scope of services or deliverables will require a change order signed by both parties.
- 16. Product Performance.** All HP-branded hardware products are covered beside the warranty claims by the particular HP’s limited warranty statements that are provided with the products respectively are made available at purchase or on request. If applicable, to products of other producers’ the separate warranty terms of the particular producer apply.
- 17. Software Performance.** HP warrants that its branded software products will conform materially to the documentation and be free of malware at the time of delivery. HP warranties for software products will begin on the date of delivery and unless otherwise specified in Supporting Material, last for twelve (12) months. HP does not warrant that the operation of software products will be uninterrupted or error-free or that software products will operate in hardware and software combinations other than as authorized by HP in Supporting Material.
- 18. Services Performance.** Services are performed using generally recognized commercial practices and standards. Customer agrees to provide prompt notice of any such service concerns and HP will re-perform any service that fails to meet this standard.

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- 19. Product Warranty Claims.** Defects which affect the designated use of HP hardware or HP software or of specific deliverables defined in the Supporting Material not only insignificantly authorize the Customer to enforce warranty claims. The Customer has at first only the right of supplementary performance within a reasonable period of time. The supplementary performance contains at sole discretion of HP either rectification of defects or delivery of a new product. The interests of the Customer will be considered appropriately. If the supplementary performance fails or is not realizable because of other reasons the Customer may withdraw from the Order without any costs (withdrawal). Compensation for damages or reimbursement of expenses are excluded in the case of warranty claims, unless stated otherwise in clause 33. However HP has to pay all expenses which are necessary for the supplementary performance as far as the expenses are not based on the fact that the products were shipped to another place than the place of delivery afterwards, unless the shipping is in accordance with the normal use of the products. Any warranty claim will expire if any possible defect is based on the fact that the Customer or any third party, changes products without prior approval of HP, has used or repaired them improperly, or products were installed, operated or maintained not in accordance with HP guidelines. The Customer has to report defects immediately to HP upon written notice. If the complain of defects is carried out wrongly HP is entitled to ask the Customer for compensation of the occurred expenses of HP. For warranty claims exists a limitation period of one year starting with the day of delivery or if applicable with the conclusion of the installation or (if the Customer delays the installation of HP) at the latest 30 days after the delivery date.
- 20. Remedies.** This Agreement states all remedies for warranty claims. To the extent permitted by law, HP disclaims all other warranties.
- 21. Intellectual Property Rights.** No transfer of ownership of any intellectual property will occur under this Agreement. Customer grants HP a non-exclusive, worldwide, royalty-free right and license to any intellectual property that is necessary for HP and its designees to perform the ordered services. If deliverables are created by HP specifically for Customer and identified as such in Supporting Material, HP hereby grants Customer a worldwide, non-exclusive, fully paid, royalty-free license to reproduce and use copies of the deliverables internally.

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- 22. Intellectual Property Rights Infringement.** HP will defend and/or settle any claims against Customer that allege that an HP-branded product or service as supplied under this Agreement infringes the intellectual property rights of a third party. HP will rely on Customer’s prompt notification of the claim and cooperation with our defense. HP 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 Customer the amount paid for the affected product in the first year or the depreciated value thereafter or, for support services, the balance of any pre-paid amount or, for professional services, the amount paid. HP is not responsible for claims resulting from any unauthorized use of the products or services. This section shall also apply to deliverables identified as such in the relevant Support Material except that HP is not responsible for claims resulting from deliverables, content or design provided by Customer.

- 23. License Grant.** HP grants Customer a non-exclusive license to use the version or release of the HP-branded software listed in the Order. Permitted use is for internal purposes only (and not for further commercialization), and is subject to any specific software licensing information that is in the software product or its Supporting Material. For non-HP branded software, the third party’s license terms will govern its use. The information for products and licenses (inclusive documentation) is provided in English.

- 24. Updates.** Customer may order new software versions, releases or maintenance updates (“**Updates**”), if available, separately or through an HP software support agreement. Additional licenses or fees may apply for these Updates or for the use of the software in an upgraded environment. Updates are subject to the license terms in effect at the time that HP makes them available to Customer.

- 25. License Restrictions.** HP may monitor use/license restrictions remotely and, if HP makes a license management program available, Customer agrees to install and use it within a reasonable period of time. Customer may make a copy or adaptation of a licensed software product only for archival purposes or when it is an essential step in the authorized use of the software. Customer may use this archival copy without paying an additional license only when the primary system is inoperable. Customer may not copy licensed software onto or otherwise use or make it available on any public external distributed network. Licenses that allow use over Customer’s intranet require restricted access by au-

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thorized users only. Customer will also not modify, reverse engineer, disassemble de-
 crypt, decompile or make derivative works of any software licensed to Customer under
 this Agreement unless permitted by statute, in which case Customer will provide HP with
 reasonably detailed information about those activities.

- 26. **License Term and Termination.** Unless otherwise specified, any license granted is perpet-
 ual. There is no strict liability for a time-limited software license. HP may demand the
 omission from the Customer to use the software, if he is, despite an extension of time for
 relief, in not only insignificant breach of the license terms or other regulations for the
 protection of unauthorized use of the software. Immediately upon termination, or in the
 case of a limited-term license, upon expiration, Customer will either destroy all copies of
 the software or return them to HP, except that Customer may retain one copy for archival
 purposes only.

- 27. **License Transfer.** Customer may not sublicense, assign, transfer, rent or lease the soft-
 ware or software license except as permitted by HP. HP-branded software licenses are
 generally transferable subject to HP’s prior written authorization and payment to HP of
 any applicable fees. Upon such transfer, Customer’s rights shall terminate and Customer
 shall transfer all copies of the software to the transferee. Transferee must agree in writing
 to be bound by the applicable software license terms. Customer may transfer firmware
 only upon transfer of associated hardware.

- 28. **License Compliance.** HP may audit Customer compliance with the software license terms.
 Upon reasonable notice, HP may conduct an audit during normal business hours (with the
 auditor’s costs being at HP’s expense). If an audit reveals underpayments then Customer
 will pay to HP such underpayments. If underpayments discovered exceed five (5) percent
 of the contract price, Customer will reimburse HP for the auditor costs.

- 29. **Confidentiality.** Information exchanged under this Agreement will be treated as confi-
 dential if identified as such at disclosure or if the circumstances of disclosure would rea-
 sonably indicate such treatment. Confidential information may only be used for the pur-
 pose of fulfilling obligations or exercising rights under this Agreement, and shared with
 employees, agents or contractors with a need to know such information to support that
 purpose. Confidential information will be protected using a reasonable degree of care to
 prevent unauthorized use or disclosure for 3 years from the date of receipt or (if longer)

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for such period as the information remains confidential. These obligations do not cover information that: i) was known or becomes known to the receiving party without obligation of confidentiality; ii) is independently developed by the receiving party; or iii) where disclosure is required by law or a governmental agency.

- 30. **Personal Information.** HP does not intend to process personal data on behalf of Customer in providing services. If this however occurs in the context of the particular order additional regulations apply in the context of the commissioned data processing according to appendix “Data Protection”. In addition HP processes personal data for its own purposes automated and the contact data of the Customer contact person in accordance with the terms of the Federal Data Protection Acts inside and outside of the Federal Republic of Germany and the European Union.
- 31. **US Federal Government Use.** If software is licensed to Customer for use in the performance of a US Government prime contract or subcontract, Customer agrees that consistent with FAR 12.211 and 12.212, commercial computer software, documentation and technical data for commercial items are licensed under HP’s standard commercial license.
- 32. **Global Trade compliance.** Products and services provided under these terms are for Customer’s internal use and not for further commercialization. If Customer exports, imports or otherwise transfers products and/or deliverables provided under these terms, Customer will be responsible for complying with applicable laws and regulations and for obtaining any required export or import authorizations. HP may suspend its performance under this Agreement to the extent required by laws applicable to either party.
- 33. **Limitation of Liability.** For violation of obligations and tort, HP and its vicarious agents are liable without limitation in case of wilful conduct and gross negligence. The same applies to malicious concealment of a defect. As far as the violation on the part of HP and its vicarious agents is not considered as wilful or gross negligent the liability under this Agreement is limited per Order to a maximum amount up to the greater of 1 mio. € or the amount payable by the Customer to HP for the relevant Order. Any further liability is excluded, in particular such for consequential damages and loss of profit or data. This limitation does not refer to damages due to unauthorized use of intellectual property, life threatening, bodily injury or adverse health effects and claims under the Product Liability

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Act. In case of provision of personnel for work subject to Customer’s supervision and direction, HP shall only be liable if HP had wilfully or gross negligently failed to choose such personnel in accordance with Customer’s requirements which had been notified to HP in advance. Any liability shall be excluded if the damage had also occurred in case of faultless selection of such personnel.

- 34. Disputes.** If Customer is dissatisfied with any products or services purchased under these terms and disagrees with HP’s proposed resolution, we both agree to promptly escalate the issue to a Vice President (or equivalent executive) in our respective organizations for an amicable resolution without prejudice to the right to later seek a legal remedy.
- 35. Force Majeure.** Neither party will be liable for performance delays nor for non-performance due to causes beyond its reasonable control, except for payment obligations.
- 36. Termination.** 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 a reasonable period 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 with regard to the own assets, the other party may terminate this Agreement and cancel any unfulfilled obligations. Any terms in the Agreement which by their nature extend beyond termination or expiration of the Agreement will remain in effect until fulfilled and will apply to both parties' respective successors and permitted assigns.
- 37. General.** This Agreement represents our entire understanding with respect to its subject matter and supersedes any previous communication or agreements to the identical subject matter of the agreement that may exist. Modifications to the Agreement will be made only through a written amendment signed by both parties. This mandatory written form also applies to the alteration of the mandatory written form. Both parties may not set off against claims of the other party or claim any right of retention unless the counterclaim is uncontested or has been finally decided upon by a court of competent jurisdiction. The Agreement will be governed by the laws of this country in which the specific order was accepted – excluding the UN Sales Convention. For all contractual and with the concluded agreement associated claims inside this country the local courts at the registered office of HP will have jurisdiction. This also applies to a summary procedure, where the plaintiff relies entirely on documentary evidence.

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The parties confirm their agreement to these terms either by referencing them in the relevant Order or by executing below:

Signed for HP:
[Insert signature]

By:
[Insert name]

Title:
[Insert signatory's business title]

HP Entity:

Date:
[Insert date]

Signed for Customer:
[Insert signature]

By:
[Insert name]

Title:
[Insert signatory's business title]

Customer Entity:

Date:
[Insert date]