



Agreement Number(s) where required:

HP:.....

Customer:.....

Effective Date (if applicable):.....

Term Length (if applicable):.....

HP CUSTOMER TERMS - SOFTWARE-AS-A-SERVICE

1. **Parties.** These terms represent the agreement (“**Agreement**”) that governs the purchase of SaaS from the Hewlett-Packard Company entity identified in the signature section below (“**HP**”) by the Customer entity identified below (“**Customer**”).
2. **Definitions.**
 - a. “**HP Software**” means the on-premise version of an HP software product, if any, delivered as a service and as identified in a data sheet and/or Statement of Work (“**SOW**”) (either or both “**Supporting Material**”).
 - b. “**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) standard or negotiated service descriptions, data sheets and their supplements, and statements of work (SOWs), and may be available to Customer in hard copy or by accessing a designated HP website.
 - c. “**SaaS**” means the online software-as-a-service solution that HP provides, including support, and related professional services as described in the Supporting Material and other exhibits or attachments that are made a part of this Agreement.
3. **Overview.** SaaS may be used only for Customer’s internal business purposes and not for commercialization. The SaaS term is in the relevant Supporting Material or HP quotation (the “**SaaS Term**”). If Customer previously purchased a perpetual license to HP Software, the price of SaaS shall reflect such purchase and such pre-existing license shall be deemed to be used in relation to SaaS. During the SaaS Term, Customer may not use such HP Software installed on Customer infrastructure except in connection with receipt of SaaS.
4. **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.
5. **Order Arrangements.** Customer may place orders with HP through our website, customer-specific portal, or by letter, fax or e-mail. 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.
6. **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 unless otherwise quoted. If a withholding tax 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.
7. **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.**8. Dependencies.** HP’s ability to deliver SaaS will depend on Customer’s reasonable and timely



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cooperation and the accuracy and completeness of any information from Customer needed to deliver the services.

- 9. Change Orders.** We each agree to appoint a project representative to serve as the principal point of contact in managing the delivery of SaaS and in dealing with issues that may arise. Requests to change the scope of SaaS will require a change order signed by both parties.
- 8. SaaS Performance.** SaaS is consistent with generally recognized practices and standards for software-as-a-service.
- 9. Remedies.** This Agreement states all remedies for warranty claims. HP does not warrant that SaaS will be uninterrupted or error free. To the extent permitted by law, HP disclaims all other warranties.
- 10. 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.
- 11. 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.
- 12. Confidentiality.** Information exchanged under this Agreement will be treated as confidential if identified as such at disclosure or if the circumstances of disclosure would reasonably indicate such treatment. Confidential information may only be used for the purpose 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) 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.
- 13. Personal Information.** Customer and HP shall comply with their respective obligations under applicable data protection legislation as a controller and processor, respectively. Customer shall remain the controller of Customer Personal Data (as defined in the Exhibit) at all times. Exhibit "SaaS Data Protection Regulations" forms part of this Agreement and takes precedence over any conflicting terms herein or in any Supporting Material.
- 14. Security.** Information about SaaS' security controls are provided at the hp.com website or can be otherwise provided at Customer's request.



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- 15. Global Trade compliance.** 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.
- 16. Limitation of Liability.** HP's liability to Customer under this Agreement is limited to the greater of \$1,000,000 or the amount payable by Customer to HP for the relevant Order. Neither Customer nor HP 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 Agreement; nor any liability which may not be excluded or limited by applicable law.
- 17. Disputes.** If Customer is dissatisfied with SaaS 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.
- 18. Force Majeure.** Neither party will be liable for performance delays or for non-performance due to causes beyond its reasonable control, except for payment obligations.
- 19. 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 or asset assignment, 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.
- 20. Rescheduling.** Customer has the one-time right to reschedule the Order start date without charge (for a date that is no more than three (3) months after the originally scheduled start date) upon no less than three (3) business days' written notice prior to the date that delivery is scheduled to begin. Customer shall forfeit any days that are rescheduled with less than three (3) business days' notice.
- 21. Effect of Termination.** Except for termination for cause, the termination of this Agreement shall not entitle Customer to any refund.
- 22. Order of Precedence.** To the extent that the terms of this Agreement conflict with other terms in any other agreement between Customer and HP, the terms in this Agreement shall control as to SaaS.
- 23. General.** This Agreement represents our entire understanding with respect to its subject matter and supersedes any previous communication or agreements that may exist. Modifications to the Agreement will be made only through a written amendment signed by both parties. The Agreement will be governed by the laws of the country of HP or the HP Affiliate accepting the Order and the courts of that locale will have jurisdiction; however, HP or its Affiliate may bring suit for payment in the country where the Customer Affiliate that placed the Order is located. Customer and HP agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Claims arising or raised in the United States will be governed by the laws of the state of California, excluding rules as to choice and conflicts of law.

EXHIBIT - SAAS DATA PROTECTION REGULATIONS

Definitions



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- (i) The terms “controller”, “data subject”, “processor”, “process”, “processed” or “processing” and “personal data” used in this Addendum shall be as defined in European Directive 95/46/EC.
- (ii) “**Customer Personal Data**” means personal data of which Customer or its affiliates is the controller and which HP processes in the course of providing SaaS.

Data Processing

- (i) Customer hereby appoints HP as a processor of Customer Personal Data. Customer and HP shall comply with all data protection laws to which they are subject, as a controller and processor respectively, and which are applicable to their information security, privacy and data protection obligations in connection with Customer Personal Data.
- (ii) HP shall only process Customer Personal Data as required to provide SaaS and in accordance with the Customer’s written instructions (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the Customer to HP under this Agreement) and to the extent that such instructions are not compatible with HP’s obligations under this Agreement they shall be implemented as agreed by the parties.
- (iii) HP has implemented the HP SaaS technical and organisational measures to protect Customer Personal Data against accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure, details of which are provided at the hp.com website or can otherwise be provided on Customer’s request. These include:
 - Physical access controls
 - Access Controls
 - Access Limitation Controls
 - Input Controls
 - Job Controls
 - Availability Controls
 - Data Separation
- (iv) HP will ensure that all employees involved in the processing of Customer Personal Data are authorized personnel with a need to access the data, are bound by appropriate confidentiality obligations and have undergone appropriate training in the protection of personal data.
- (v) Where the Supporting Material identifies categories of Customer Personal Data or other Customer-provided data that are to be returned to Customer upon termination, HP will supply such data to Customer in the agreed format and will delete from HP’s own systems any remaining copies of such Customer Personal Data or other data, unless legislation applicable to it prevents it from doing so.
- (vi) HP will within five (5) business days of receipt, refer to Customer any queries from data subjects in connection with Customer Personal Data, for Customer to deal with.
- (vii) HP will on written request of Customer promptly amend or delete any Customer Personal Data to the extent that Customer is not able to amend or delete the data itself.
- (viii) Customer Personal Data will be transferred to HP’s parent company, Hewlett Packard Company in the United States of America, and onward to other affiliate and third party subcontractors located outside the EEA and Switzerland who support SaaS, a list of which is available upon request.
- (ix) Customer acknowledges that HP is a party to the United States Safe Harbor programme and certified under the EU-US and/or Swiss-US Safe Harbor framework (“**Certification**”). For as long as the EU-US and Swiss-US Safe Harbor Frameworks are recognised by the European Union as a legitimate basis for the transfer of Personal Data from the European Union or Switzerland to a certified entity located in the United States of America, HP warrants that:



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- (a) Hewlett-Packard Company is and shall remain certified under the Certification;
 - (b) the processing of Customer Personal Data which originates from the EEA and Switzerland is within the scope of the Certification; and
 - (c) it shall notify Customer if Hewlett Packard Company does not renew or loses the Certification, or amends the Certification so that the processing of Customer Personal Data which originates from the EEA and Switzerland is no longer within the scope of the Certification.
- (x) When HP obtains formal approval for binding corporate rules for processors (BCR-P), the parties may agree to rely on the BCR-P for transfers of Customer Personal Data. The relevant information and additional contract terms will be provided to Customer on request.
- (xi) HP will ensure that any affiliate or third party subcontractor involved in processing Customer Personal Data enters into a written agreement with HP (which may be an inter-company agreement in the case of affiliates), which includes obligations substantially similar to those contained in this Addendum and appropriate to the nature of the processing involved.