



HP AllianceONE PROGRAM TERMS

BETWEEN _____ hereinafter "HP"

AND [[ContractorCoName]] hereinafter "Participant"

This HP AllianceONE Program Terms section becomes part of the HP Single Order Terms and they establish the entire agreement ("Agreement"). All capitalized terms not defined in this section will have the meaning set forth in the HP Single Order Terms. In the event of conflict between this section and other section(s) of the HP Single Order Terms, the terms of this section prevail for the subject matter of this section.

1. RECITALS

- a. Participant wishes to develop, convert, test, certify, demonstrate and deploy certain hardware/software products/services for use with HP Products as described in this Agreement or to provide integration or consulting services for HP solutions or platforms.
- b. HP wishes to assist Participant by providing access to the content and developer tools that HP may make available through the HP AllianceONE program ("AllianceONE Program"), formerly called Developer & Solution Partner Program ("DSPP"), and the associated web site portal ("Portal"), including discounts on the purchase of certain approved HP Products, in the minimum configuration necessary to develop, convert, test and demonstrate Participant's products/services and provide integration or consulting services for HP solutions or platforms in Canada (the "Territory").
- c. HP may elect to make some products available only through an Authorized HP Reseller. Sales from an Authorized HP Reseller are not covered under this Agreement and will be in accordance with prices and terms and conditions agreed to between Participant and the Authorized HP Reseller.
- d. HP wishes to make available to its customers and internal audiences information about products and services available for HP platforms. Participant wishes to provide information on its company/products/services and HP may, at its sole discretion, publish this information on HP websites and in other HP collateral and marketing materials.

2. PRODUCT DEVELOPMENT

- a. Participant agrees to devote commercially reasonable efforts to:
 1. develop, convert, test, certify, demonstrate and deploy, within the Territory, certain Participant products/services for use with HP Products; or
 2. provide integration or consulting services for HP solutions or platforms within the Territory. In the event Participant makes any new versions, releases, updates, upgrades or other enhancements to the certain products/services generally available during the term of this Agreement ("Enhancements"), Participant will simultaneously or within a reasonable period of time thereafter enable and make the Enhancements generally available for use with HP Products.
- b. Participant agrees that it is solely responsible for all costs and expenses of developing the products/services and for all marketing of the products/services, except as otherwise agreed by HP in a separate, written agreement.

3. HP PRODUCTS

- a. Subject to the following conditions, HP may, at its sole discretion, sell hardware and license software to Participant. Products will be listed on one or more Product Exhibits. HP may elect to make some products available only through an Authorized HP Reseller. Sales made by HP will be in accordance with the eligible product lists, Exhibits, and discount schedules available through the AllianceONE Program and pursuant to then current SO01 (HP Single Order Terms). Sales from the Authorized HP Reseller will be in accordance with the prices and terms and conditions provided by the Authorized HP Reseller. Some optional AllianceONE Program benefits, such as HP value added services, may be subject to other terms, conditions and fees under separate agreements to be entered into with Participant at Participant's option.
- b. Participant may not exceed the specified order limits in HP Products through the AllianceONE Program, either purchased directly from HP or through and Authorized HP Reseller, during each calendar year that this Agreement is in effect. System configurations for HP Products and order limits are contained in the current Portal details located at www.hp.com/go/allianceone/program.
- c. HP may offer used or remarketed HP Products updated to current technical specifications if allowed by local country regulations.
- d. Participant agrees to use the HP Products primarily for the purposes stated in section 2 hereof for a minimum of one year after delivery
- e. Participant agrees not to purchase HP Products under this Agreement for resale purposes.
- f. The discounts HP grants to Participant under this Agreement are in lieu of any other discount. No dollar value for HP Products purchased under this Agreement will be credited to any other agreement with HP.

4. PRICE



The purchase price of HP Products purchased under this Agreement, either directly from HP or through an HP Authorize Reseller, will not exceed HP's then current local country list price less the applicable then current AllianceONE Program discount available at the Portal at the time HP receives Participant's order. Participant agrees to pay the applicable charges associated with any HP Product purchased, licensed or otherwise received hereunder, or with any other fee-based AllianceONE Program benefit Participant may select. Amounts are due upon receipt of invoice and payable as specified in an invoice or transaction document.

5. REPRESENTATIONS AND TRADEMARKS

- a. For the Term of this Agreement and subject to Participant complying with the terms and conditions of this Agreement and the requirements on the Portal which are incorporated by reference, HP may authorize Participant to identify itself as an "HP Business Partner" and to display the HP Business Partner Insignia depicted on the Portal (the "Insignia"), and such other HP trademarks for which Participant receives explicit permission from HP as provided on the Portal (the "Authorized Marks").
- b. Participant may display the Insignia and the Authorized Marks, if applicable, solely for the fair and accurate marketing of Participant's products and services that have been developed, certified and deployed for use with HP Products in accordance with this Agreement.
- c. Participant will comply with HP's trademark specifications and instructions made available on the Portal (the "Specifications"), including but not limited to the following:
 1. Participant will not use or display the Insignia and/or the Authorized Marks, if applicable, in a manner that is not accurate or in a manner that is likely to confuse or mislead as to the relationship between Participant and HP. All materials that bear the Insignia and/or the Authorized Marks, if applicable, must also bear Participant's corporate name and/or logo. The Insignia shall be physically separated from, and displayed in a size and location less prominent than, Participant's own names, marks or logos.
 2. Participant will only use artwork provided by HP for the Insignia and/or the Authorized Marks, and will not modify this artwork in any manner.
 3. Participant will not use the Insignia and/or the Authorized Marks, in a manner that compromises or reflects unfavorably upon the goodwill, good name, reputation or image of HP, or which might jeopardize or limit HP's proprietary interest in HP's name, insignia, symbols, logo, trade names, or marks (collectively "HP Marks"). Participant agrees to follow honest and ethical business practices, to comply with all applicable laws and regulations, and to seek a high level of customer satisfaction.
 4. Participant may not apply the Insignia and/or the Authorized Marks to contracts, warranties and/or other legal documents.
 5. Participant may not include the words "HP", "HEWLETT PACKARD", "NONSTOP", "HP-UX", "EDS", or any other HP Marks in its corporate, business, or domain names.
- d. HP may change, modify or add to the Specifications at any time by updating the Portal. HP will not routinely notify Participant of changes in the Specifications and Participant agrees to periodically review the Portal to ensure familiarity with the Specifications and ongoing compliance. Participant must implement any required changes or discontinue use of the Insignia and/or the Authorized Marks as soon as commercially practical. In the event HP notifies Participant of its failure to comply with the Specifications, Participant must comply within thirty (30) days of such notification.
- e. HP may, in its sole discretion, require that Participant stop all use of the Insignia and/or the Authorized Marks, if applicable, and Participant will comply with such request as soon as commercially practical, but in any event within five (5) days of receiving HP's request.
- f. Other than the limited authorization under this Agreement, HP conveys no license or right to use any other HP Marks by this Agreement. In particular, this Agreement does not grant any right to use the trademarks "HP", "HEWLETT PACKARD", "EDS", or the HP logo per se unless such use is in strict compliance with the explicit requirements on the Portal.
- g. All use of the Insignia and/or the Authorized Marks by Participant, if applicable, shall inure to the benefit of HP. The Insignia and the Authorized Marks shall remain the exclusive property of HP and will be used and displayed by Participant only in the manner and to the extent expressly agreed upon by HP, and only for the purposes of this Agreement.
- h. No rights in copyright, patents, trademarks, trade secrets, or other intellectual property are granted by either party to the other except as expressly provided under this Agreement.
- i. Except as provided in this Agreement and on the Portal, Participant will not display the Insignia, the Authorized Marks, or any other HP Marks in any written or media material without prior written consent of HP. Participant may not make statements (either express or implied) relating to HP's sponsorship or endorsement of Participant's products or services without the express written permission of HP. Such statements must be specific as to the products or services, and must be fair, accurate and current.
- j. HP may, but is not obligated to, permit Participant to directly upload fair and accurate information regarding Participant and Participant's authorized products/services/distributors/customers to a profile on a site operated or sponsored by the AllianceONE Program. HP may permit Participant to upload its company or product logo(s) and trademarks to this site. Participant warrants that it owns or has rights to use any logos and trademarks or other materials it uploads to the AllianceONE Program, and that they do not infringe any third party rights. Participant acknowledges that HP may remove Participant's trademarks, logo(s) and/or profile from its site with or without cause.



- k. Participant authorizes HP to use Participant's trademarks without prior written consent in HP marketing collateral or venues that list products/companies or profile products that interoperate with HP products based on information provided by Participant, including but not limited to, HP corporate websites such as www.hp.com and the Portal. Participant may request withdrawal of this authorization at any time with a written notice.
- l. Participant will advise HP immediately if it receives or becomes aware of a third-party claim, formal or informal, based in whole or in part related to content, logos or trademarks uploaded by Participant to the Portal or otherwise provided to HP.
- m. Participant agrees to indemnify HP against any claims made against HP related to Participant's materials, trademarks or logos posted to HP's sites or used by HP in accordance with this Agreement.
- n. THE INSIGNIA AND AUTHORIZED MARKS, IF APPLICABLE, ARE PROVIDED AS-IS, WITHOUT WARRANTY OR INDEMNITY OF ANY KIND. HP EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, STATUTORY AND OTHERWISE, WITH RESPECT TO THE INSIGNIA AND THE AUTHORIZED MARKS, INCLUDING ANY WARRANTY OF TITLE, NON-INFRINGEMENT AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- o. Any breach of this Section will be considered a material breach of this Agreement.

6. CONFIDENTIALITY

- a. If the parties exchange confidential information, the receiving party will protect the confidential information of the other in the same manner in which it protects its own equivalent proprietary, confidential, and trade secret information, but with no less than reasonable care. To be treated as confidential information under this Agreement, prior to disclosure, the party disclosing the confidential information must either mark such information as "confidential", or if such information is provided orally, notify the receiving party in writing that the information is confidential within thirty (30) days of its communication. Unless agreed otherwise, such information will remain confidential for two (2) years after the date of written disclosure.
- b. Participant will use confidential information for the purpose of fulfilling its obligations under this Agreement and not for any other purpose. Participant will not publicize or disclose to any third party the contents of this Agreement without prior written consent from HP.
- c. The following information will not be classified as confidential information. Information that is:
 - 1. A matter of public knowledge at the time of disclosure, or becomes one, through no fault of the recipient's;
 - 2. Rightfully received by the recipient from a third party without a duty of confidentiality;
 - 3. Independently developed or learned by the recipient;
 - 4. Disclosed under operation of law;
 - 5. Disclosed by the recipient with the discloser's prior written approval, but subject to the terms of that approval; or
 - 6. Rightfully, in the recipient's possession before the disclosure.

7. TERM AND TERMINATION

- a. This Agreement will commence upon the effective date specified below and remain in effect for one (1) year thereafter unless terminated earlier under this section 7 provided Participant is:
 - 1. meeting its obligations under this Agreement; and
 - 2. maintaining the accuracy of its company, contact and product/service information. Provided these two conditions are met, this Agreement will renew automatically for additional one (1) year periods.
- b. Either party may terminate this entire Agreement without cause upon thirty (30) days written notice to the other party. Either party may terminate this entire Agreement for cause unless the other party cures the breach within fifteen (15) days of written notice of such breach.
- c. In the event of termination by HP for cause, Participant agrees to pay to HP, at HP's discretion, the amounts by which HP discounted purchases of HP Products under this Agreement during the immediately preceding twelve (12) months.
- d. Upon termination, or at any time at HP's sole discretion, HP may discontinue display of information describing Participant's products/services. Notice of user dissatisfaction shall be considered to be good cause for termination.
- e. All rights and any license granted to Participant will cease upon termination of this Agreement.

8. CHANGES AND AMENDMENTS

- a. From time to time, HP may add or delete HP Products from the Program; change list prices or discounts; implement or change HP policies or programs; change or terminate the AllianceONE Program; or otherwise amend this Agreement or its sections at HP's discretion, after reasonable notice to Participant in writing or through the Portal.



- b. Except as provided in sub-section 8. a above, no amendment to this Agreement will be binding on either party unless made in writing and signed by authorized representatives of both parties.

8. GENERAL

- a. Participant and HP agree that no right, title or interest in each other's products is granted or may be implied from the Agreement except as expressly stated.
- b. HP reserves the right to refuse to sell HP Products/services under this Agreement, if in HP's sole judgment the intended use of the equipment does not satisfy the conditions stated herein.
- c. Participant and HP agree that each is an independent contractor and that no relationship of agency, partnership, joint venture, legal representative or other form of association with regard to HP or HP's Products is intended by or may be claimed by Participant in connection with this Agreement. This Agreement does not authorize either party to represent, act for, bind or commit the other.
- d. Participant may not assign or transfer any rights or obligations hereunder without prior written consent from HP. HP may, however, assign any rights and obligations hereunder to another Hewlett-Packard entity at any time subject to written notice.
- e. By entering into this Agreement, Participant hereby consents to HP's use of any information Participant may provide in connection with the AllianceONE Program in profiling Participant and its products/services/distributors/partners/customers, in furtherance of the AllianceONE Program marketing Participant products/services availability on HP platforms, and for any other purpose permitted under this Agreement. Participant specifically agrees that HP may use any information provided by Participant to profile Participant and its products/services/distributors/partners/customers on a web site owned or otherwise sponsored by HP. HP also may use information on how to contact Participant's employees such as names, work phone numbers and work e-mail addresses in any country where any HP organization or Participant does business. Participant will maintain the accuracy of the information provided to HP as part of the AllianceONE Program and/or the Portal, as well as regularly update or supplement such information upon HP's reasonable request. To the extent Participant provides HP with any personal data collected by Participant or Participant's authorized third parties (including information collected from end users), Participant represents and warrants that such information is processed in accordance with the provisions of all applicable data protection legislation.
- f. This Agreement will not obligate either party to use or market products developed by the other party, nor will it restrict either party in connection with offering or developing similar or competing products or entering into similar agreements with other parties.
- g. Each party may communicate with the other by electronic means (for example, to provide written notice or consent to the other), and such communication is acceptable as a signed writing to the extent permissible under applicable law.
- h. As part of this Agreement, Participant agrees to receive periodic information on products, programs, or other HP offerings.
- i. Participant may not issue a press release relating to HP, HP Products, HP services, or this Agreement without HP's prior written consent. Participant will not make any claim or representation about HP or its products or services other than as currently published by HP.
- j. Participant will comply with all applicable laws and regulations including export laws.
- k. Section 6 (confidentiality) of this Agreement will survive expiration or termination.
- l. This Agreement and all matters or issues collateral thereto shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Without limiting the foregoing, each of the parties irrevocably and unconditionally: (a) agrees that any suit, action, or other legal proceeding arising out of or relating to this Agreement or any transaction hereunder must be brought in the Ontario Superior Court of Justice, in the City of Toronto, (b) consents to the exclusive jurisdiction of each such court in any such suit, action, or proceeding; (c) waives any objection which it may have to the laying of the venue of any such suit, action or proceeding in any of such courts; and (d) waives any right that it may have to assert the defence of forum non-convenience in any such suit, action or proceeding.



HP AGREEMENT NUMBER [[ContractNumber]]

EFFECTIVE DATE [[ContStartDt]]

Sign Date: _____

AGREED TO: Participant _____

AGREED TO: HP _____

Authorized Representative Signature

Authorized Representative Signature

Name: _____
Title: _____

Name: _____
Title: _____

Address: _____

Address: _____



HEWLETT-PACKARD (CANADA) CO. ("HP") CUSTOMER AGREEMENT (SINGLE ORDER TERMS)

A. HP BASE TERMS

1. DEFINITIONS

- a. *Affiliate* of a party means an entity controlling, controlled by, or under common control with, that party.
- b. *Deliverable* means the tangible work product resulting from the performance of Support excluding Products and Custom Products.
- c. *Hardware* means computer and related devices and equipment, related documentation, accessories, parts, and upgrades.
- d. *HP Branded* means Products and Support bearing a trademark or service mark of Hewlett-Packard Company or any HP Affiliate.
- e. *Product* means Hardware and Software listed in HP's standard price list at the time of HP's acceptance of Customer order, and including products that are modified, altered, or customized to meet Customer requirements "Custom Products".
- f. *Software* means machine-readable instructions and data (and copies thereof) and related updates and upgrades, licensed materials, user documentation, user manuals, and operating procedures.
- g. *Software License Information ("SLI")* is license information that is specific to a Software Product. The SLI may be found in a file in the Software Product's directory or as information that accompanies the Software Product or in HP quotations. The SLI is available upon request.
- h. *Specification* means technical information about Products published in HP Product manuals, user documentation, and technical data sheets in effect on the date HP delivers Products to Customer.
- i. *Statement of Work* means an executed document so titled, that describes the Custom Support to be performed by HP under the Professional Services Terms or Support Terms sections.
- j. *Support* means Hardware maintenance and repair, Software maintenance, training, installation and configuration, and other standard support services provided by HP and includes "Custom Support" which is any agreed non-standard Support as described in a Statement of Work.
- k. *Transaction Document(s)* means an accepted Customer order (excluding pre-printed terms) and in relation to that order valid HP quotations, HP published technical data sheets or service descriptions, HP limited warranty statements delivered with or otherwise made available to Customer with Products, and mutually executed Statements of Work, all as provided by HP, or other mutually executed documents that reference these HP Single Order Terms (these "Terms").
- l. *Version* means a release of Software that contains new features, enhancements, and/or maintenance updates, or for certain Software, a collection of revisions packaged into a single entity and, as such, made available by HP to its customers (also called a "Release").

2. PRICES AND TAXES

- a. Prices. Product and Support prices are specified in the current local published HP price list at the time HP receives Customer's order, or in a valid Transaction Document. Prices are subject to change at any time prior to HP's acceptance of Customer's order, unless stated otherwise in a Transaction Document.
- b. Price Validity. Unless prices are changed by HP in accordance with these Terms, prices are valid for the period set forth in a Transaction Document. Product prices for an order remain valid for ninety (90) days from original order date unless otherwise quoted by HP.
- c. Taxes and Other Fees. Prices are exclusive of, and Customer will pay, electronic waste recycling fees required to be remitted by HP under any applicable provincial electronic waste recycling program, applicable sales, use, consumption, goods and services, value added or like taxes, unless Customer has provided HP with any applicable exemption certificate for the Delivery jurisdiction.
- d. Withholding Tax. If Customer is required by law to withhold and remit tax relating to Customer's order, Customer shall:
 1. be entitled to reduce the payment by the amount of such tax;
 2. withhold and remit such tax to the applicable tax jurisdiction;
 3. assist HP to obtain the benefit of any reduced withholding tax under applicable tax treaties; and
 4. furnish to HP a tax certificate or other acceptable evidence of payment of such tax as required by the relevant taxing authorities.
- e. Financing. Third party financing transactions require advance notice to HP for appropriate tax treatment.

3. CUSTOMER ORDERS

- a. Orders. Orders will be governed by these Terms and are subject to acceptance by HP. Orders must specify a "ship to" address and have a delivery date within ninety (90) days from the order date unless otherwise provided in a Transaction Document.



- b. Cancellation. Customer may cancel an order for Products (but not Custom Products) at no charge up to five (5) business days prior to the scheduled shipment date.
- c. Extended Delivery Dates. Changes to orders that extend delivery dates beyond ninety (90) days from the order date shall be considered new orders at the prices in effect when HP receives the changed order.

4. DELIVERY

- a. Delivery. HP will deliver Products by arranging shipping to the receiving area at the "ship to" address specified in Customer's order within the country in which HP accepted the order. HP may elect in its sole discretion to deliver Software, Deliverables, Specifications, or Product documentation by enabling electronic transmission to, or electronic access or download by Customer in the country where HP accepted the order.
- b. Delivery Charges. Transportation and handling charges are payable by Customer and will be specified in an HP invoice unless otherwise specified in a Transaction Document. Special packing or shipping arrangements will be charged separately to Customer.
- c. Delivery Requirements. If HP is unable to meet Customer's Product delivery requirements, Customer may cancel that order, and such cancellation is Customer's sole remedy.

5. PAYMENT

- a. Payment Terms. Customer agrees to pay, without offset, all invoiced amounts within thirty (30) days of HP's invoice date. HP may change credit or payment terms for unfulfilled orders if, in HP's reasonable opinion, Customer's financial condition, previous payment record, or relationship with HP merits such change.
- b. Customer Default. HP may discontinue performance if Customer fails to pay any sum due, or if after ten (10) days written notice Customer has not cured any other failure to perform under these Terms.
- c. Security Interest. HP retains a security interest in Products until payment. Customer shall execute any paperwork required by HP to effectuate any such security interest.

6. WARRANTY PROVISIONS

- a. Warranty Statements. HP limited warranty statements for Hardware, Software and Support as applicable, are contained in their respective sections of these Terms. The limited warranties in these Terms are subject to the terms, limitations, and exclusions contained in the limited warranty statement provided for the Product in the country where that Product is located when the warranty claim is made. A different limited warranty statement may apply and be quoted if the Product is purchased as part of a system.
- b. Transfer. Warranties are transferable to another party for the remainder of the warranty period subject to HP license transfer policies and any assignment restrictions.
- c. Delivery Date. Warranties begin on the date of delivery, or for Hardware on the date of installation if installed by HP. If Customer schedules or delays such installation by HP more than thirty (30) days after delivery, Customer's warranty period will begin on the 31st day after delivery.
- d. Exclusions. HP is not obligated to provide warranty services or Support for any claims resulting from:
 - 1. improper site preparation, or site or environmental conditions that do not conform to HP's site specifications;
 - 2. Customer's non-compliance with Specifications or Transaction Documents;
 - 3. improper or inadequate maintenance or calibration;
 - 4. Customer or third-party media, software, interfacing, supplies, or other products;
 - 5. modifications not performed or authorized by HP;
 - 6. virus, infection, worm or similar malicious code not introduced by HP; or
 - 7. abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by Customer, or other causes beyond HP's control.
- e. Non-HP Branded Products and Support. HP provides third-party products, software, and services that are not HP Branded "AS IS" without warranties or representations of any kind from HP, although the original manufacturers or third party suppliers of such products, software and services may provide their own warranties, representations or conditions.
- f. Disclaimer. The warranties and any associated remedies expressed or referenced in these Terms are exclusive. Except as expressly set out in these Terms, HP does not make any other warranties, representations or conditions express or implied, in fact or in law, and HP disclaims all implied warranties and conditions including any implied warranties or conditions of merchantable quality and fitness for a particular purpose, title and non-infringement.

7. INTELLECTUAL PROPERTY INFRINGEMENT



- a. Third-Party Claims. HP will defend or settle any third party claims against Customer alleging that HP Branded Products or Support (excluding Custom Products and Custom Support) provided under these Terms infringes intellectual property rights enforceable in Canada, if Customer:

1. promptly notifies HP of the claim in writing;
2. cooperates with HP in the defense of the claim; and
3. grants HP sole control of the defense or settlement of the claim.

HP will pay infringement claim defense costs, HP-negotiated settlement amounts, and court-awarded damages.

- b. Remedies. If such a claim appears likely, then HP may modify the HP Branded Products or Support, procure any necessary license, or replace the affected item with one that is at least functionally equivalent. If HP determines that none of these alternatives is reasonably available, then HP will issue Customer a refund equal to:

1. the purchase price paid for the affected item if within one year of delivery, or the Customer's net book value thereafter; or
2. if the claim relates to infringing Support, the lesser of twelve (12) months charges for the claimed infringing Support or the amount paid by Customer for that Support.

- c. Exclusions. HP has no obligation for any claim of infringement arising from:

1. HP's compliance with Customer or third party designs, specifications, instructions, or technical information;
2. modifications made by Customer or a third party;
3. Customer's non-compliance with the Specifications or the Transaction Documents;
4. Customer's use with products, software, or services that are not HP Branded, or
5. Any open source or freeware software.

- d. Sole and Exclusive. This sub-section A.7 states HP's entire liability for claims of intellectual property infringement.

8. INTELLECTUAL PROPERTY RIGHTS

No rights in copyright, patents, trademarks, trade secrets, or other intellectual property are granted by either party to the other except as expressly provided under these Terms. Customer will not register or use any mark or internet domain name that contains HP's trademarks (e.g., "HP", "hp", or "Hewlett-Packard").

9. RESTRICTED USE

Products, Support, and Deliverables are not specifically designed, manufactured, or intended for use as parts, components, or assemblies for the planning, construction, maintenance, or direct operation of a nuclear facility. Customer is solely liable if Products, Support, or Deliverables purchased by Customer are used for these applications and will indemnify and hold HP harmless from all loss, damage, expense, or liability in connection with such use.

10. LIMITATION OF LIABILITY AND REMEDIES

- a. Limitation of Liability. Except for the amounts in sub-section A.7 above and damages for bodily injury (including death) HP's total aggregate liability is limited to the amount paid by Customer for:

1. the Product; or
2. Support during the period of a material breach up to a maximum of twelve (12) months;

that in each case is the subject of the claim.

- b. Disclaimer. Except for claims by a party for infringement of their intellectual property rights against the other party, in no event will either party be liable for any incidental, indirect, special, or consequential costs, losses, expenses or damages or for business interruption; downtime costs; lost business, revenues, or profits; failure to realize expected savings; loss or unavailability of or damage to data; software restoration; or any other commercial or economic loss or damages of any kind, even if it has been advised of the possibility of such loss or damages or even if such loss or damages are reasonably foreseeable.

- c. Legal Theory. To the extent allowed by local law, these limitations will apply regardless of the basis of liability or the nature or cause of action, demand or claim, including negligence, misrepresentation, breach of any kind, or any other claims in contract, tort or any other legal theory and will survive a fundamental breach or breaches and/or the failure of the essential purpose of the Terms or of any remedy contained in these Terms.

11. GENERAL



- a. Electronic Orders and EDI. Where facilitated under local law, the parties may do business electronically, including order placement and acceptance. Once accepted, such orders will create fully enforceable obligations subject to these Terms. Such orders and acceptances will be deemed for all purposes to be an original signed writing. Customer and HP will adopt commercially reasonable security measures for password and access protection.
- b. Internal Use. Products and Support acquired by Customer under these Terms are solely for Customer's own internal use and not for resale or sub-licensing.
- c. Force Majeure. Neither party will be liable for performance delays nor for non-performance due to causes beyond its reasonable control; however, this provision will not apply to Customer's payment obligations.
- d. Assignment. Customer may not assign, delegate or otherwise transfer all or any part of its rights or obligations under these Terms without prior written consent from HP. Any such attempted assignment, delegation, or transfer will be null and void. Assignments of HP Software licenses are subject to compliance with HP's Software license transfer policies.
- e. Export and Import. Customer who exports, re exports, or imports or otherwise transfers products, technology, or technical data assumes responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations. HP may suspend performance under this Agreement: i) if the Customer is in violation of applicable laws and regulations, and ii) to the extent necessary to assure compliance under applicable export or similar regulations.
- f. Governing Law. Disputes arising from this Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Customer and HP agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. The parties confirm that it is their wish that this Agreement, as well as all other documents relating hereto, including all notices, have been and will be drawn up in the English language only. Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tout avis, qui s'y rattachent, soient rédigés en langue anglaise.
- g. Bankruptcy. If either party becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned, the other party may cancel any unfulfilled obligations.
- h. Survival. Any provisions in these Terms which by their nature extend beyond the termination or expiration of any sale or license of Products or Support will remain in effect until fulfilled and will apply to both parties' respective successors and permitted assigns.
- i. Notices. All notices that are required under these Terms will be in writing and will be considered effective upon receipt.
- j. Entire Agreement. These Terms represent the entire agreement between HP and Customer regarding Customer's purchase of Products and Support, and supersedes and replaces any previous communications, representations, or agreements, or Customer's additional or inconsistent terms, whether oral or written. In the event any provision of these Terms is held invalid or unenforceable the remainder of the Terms will remain enforceable and unaffected thereby.
- k. Waiver. Neither party's failure to exercise or delay in exercising any of its rights under these Terms will constitute or be deemed a waiver or forfeiture of those rights.
- l. Order of Precedence. Unless otherwise agreed or provided herein, documents will apply in the following descending order of precedence:
 1. SLI;
 2. the sections of these Terms;
 3. the statement of Work (if applicable);
 4. all Transaction Documents.
- m. Independent Contractor. HP is an independent contractor in the performance under these Terms and neither HP nor any HP personnel are employees or agents of Customer. Nothing in these Terms will be construed as creating a joint venture, partnership or employment relationship between the parties, nor will either party have the right, power or authority to create any obligation or duty, express or implied, on behalf of the other.



B. HP HARDWARE TERMS

1. RISK OF LOSS

Risk of loss or damage, and title to Hardware, will pass to Customer and acceptance will occur upon delivery to the "ship to" address or, if special shipping arrangements are agreed to, upon delivery to Customer's carrier or designee.

2. INSTALLATION

If HP provides installation services, Customer will make available facilities that meet HP published site guidelines that will be provided to Customer upon request. Upon delivery, Customer will place each item of Hardware in its designated location. Installation is billed at HP's published installation charges unless quoted as part of the Hardware purchase price. Installation by HP is complete when the Hardware passes HP's standard installation and test procedures.

3. TRADE-IN PROGRAMS

Customer has the responsibility for risk of loss for trade-in Hardware until receipt by HP. Such items must be returned to HP as soon as reasonably practicable at Customer's expense free of all liens, claims, or encumbrances, or Customer will repay to HP the applicable trade-in credit.

4. HARDWARE LIMITED WARRANTY

HP warrants HP Branded Hardware against defects in materials and workmanship under normal use during the warranty period and that it will materially conform to its Specifications for the time specified in the applicable Transaction Documents. HP Branded Hardware may contain used parts that are equivalent to new in performance and reliability and are warranted as new.

5. OPERATION

HP does not warrant that the operation of Hardware will be uninterrupted or error free, or that Hardware will operate in Hardware and Software combinations other than as expressly required by HP in the Product Specifications or that Hardware will meet requirements specified by Customer. Customer may only use firmware embedded in the Hardware to enable the Hardware to function in accordance with its Specifications.

6. EXCLUSIVE REMEDIES

Upon notice of a valid warranty claim during the warranty period and if provided reasonable access to the HP Branded Hardware, HP will, at its option, repair a defect in the HP Branded Hardware, or correct a material non-conformance to Specifications, or replace such Hardware with Hardware of equal or better functional performance. If HP is unable, within a reasonable time, to complete the repair or correction, or replace such HP Branded Hardware, Customer will be entitled to a refund of the purchase price paid upon prompt return of such Hardware to HP. Subject to the terms in Customer's specific Product warranty statement Customer will pay expenses for return of such Hardware to HP. HP will pay expenses for shipment of repaired or replacement Hardware to Customer. This sub-section states HP's entire liability for Hardware warranty claims.



C. HP SOFTWARE LICENSE TERMS

1. LICENSE GRANT

HP grants Customer a non-exclusive, non-transferable license to “Use”, in object code form, the Version or Release of the HP Branded Software delivered from an HP accepted order. For purposes of these Terms, unless otherwise specified in the SLI, “Use” means to install, store, load, execute, and display one copy of the Software on one device at a time for Customer’s internal business purposes. Customer’s Use of such Software is subject to these license terms the applicable Use restrictions and authorizations and applicable licensed locations for the Software specified by HP in the SLI (the “Software License”). The usage terms specified in the SLI for HP Branded Software will not be materially more restrictive than the Use defined in this sub-section C1. For non-HP Branded Software, the third party supplier’s license terms and use restrictions found in the SLI will solely govern its use.

2. OWNERSHIP

This Software License confers no title or ownership and is not a sale of any rights in the Software. Third-party suppliers are intended beneficiaries under these Terms and independently may protect their rights in the Software in the event of any infringement. All rights not expressly granted to Customer are reserved solely to HP or its suppliers.

3. ACCEPTANCE

Customer accepts Software upon delivery.

4. UPGRADES

Software Versions or maintenance updates, if available, may be ordered separately or may be available through Software Support. HP reserves the right to require additional licenses and fees for Software Versions or separately purchased maintenance updates or for Use of the Software in conjunction with upgraded Hardware or Software. When Customer obtains a license for a new Software Version, through Software Support or purchases an upgrade license to a new Versions. Customer’s Software License for the earlier Version shall terminate. Software Versions are subject to the license terms in effect on the date that HP delivers or makes the Version available to Customer.

5. LICENSE RESTRICTIONS

- a. Use Restrictions. Customer may not exceed the number of licenses, agents, tiers, nodes, seats, or other Use restrictions or authorizations agreed to and paid for by Customer. Some Software may require license keys or contain other technical protection measures. Customer acknowledges that HP may monitor Customer’s compliance with Use restrictions and authorizations remotely, or otherwise. If HP makes a license management program available which records and reports license usage information, Customer agrees to appropriately install, configure and execute such license management program beginning no later than one hundred and eighty (180) days from the date it is made available to Customer and continuing for the period that the software is used.
- b. Copy and Adaptation. Unless otherwise permitted by HP, Customer may only make copies or adaptations of the Software for archival purposes or when copying or adaptation is an essential step in the authorized Use of the Software. If Customer makes a copy for backup purposes and installs such copy on a backup device, unless otherwise provided in the SLI, Customer may not operate such backup installation of the Software without paying an additional license fee, except in cases where the original device becomes inoperable. If a copy is activated on a backup device in response to failure of the original device, the Use on the backup device must be discontinued when the original or replacement device becomes operable. Customer may not copy the Software onto or otherwise Use or make it available on, to, or through any public or external distributed network. Licenses that allow Use over Customer’s intranet require restricted access by authorized users only.
- c. Copyright Notice. Customer must reproduce all copyright notices that appear in or on the Software (including documentation) on all permitted copies or adaptations. Copies of documentation are limited to internal use.
- d. Designated System. Notwithstanding anything to the contrary herein, the Software License for certain Software, as identified in Transaction Documents, is non-transferable and for use only on a computer system owned, controlled, or operated by or solely on behalf of Customer and may be further identified by HP by the combination of a unique number and a specific system type (“Designated System”) and such license will terminate in the event of a change in either the system number or system type, an unauthorized relocation, or if the Designated System ceases to be within the possession or control of Customer.
- e. OS Software. Operating system Software may only be used when operating the associated Hardware in configurations as approved, sold, or subsequently upgraded by HP or an authorized HP business partner.
- f. Changes. Customer will not modify, reverse engineer, disassemble, decrypt, decompile, or make derivative works of the Software. Where Customer has other rights mandated under statute, Customer will provide HP with reasonably detailed information regarding any intended modifications, reverse engineering, disassembly, decryption, or decompilation and the purposes therefore.
- g. Use for Service Provision Extending the Use of Software to any person or entity other than Customer as a function of providing services, (i.e., making the Software available through a commercial timesharing or service bureau) must be authorized in writing by HP prior to such use and may require additional licenses and fees.



- h. Consultant Use and Access. Subject to the terms and conditions of this Agreement, Customer may permit a consultant or subcontractor to Use Software at the licensed location for the sole purpose of providing services to Customer. Customer will be responsible and directly liable to HP for consultants' compliance with this Agreement

6. LICENSE TERM AND TERMINATION

Unless a different time period for the license is specified in the applicable SLI or quotation, the Software License granted Customer will be perpetual, provided however that HP may terminate the Software License upon notice for failure to comply with these Terms. Immediately upon termination of the Software License or upon expiration of any individual limited term license, Customer will destroy the Software and all copies of the Software subject to the termination or expiration or return them to HP. Customer shall remove and destroy or return to HP any copies of the Software that are merged into adaptations, except for individual pieces of data in Customer's database. Customer may retain one copy of the Software subsequent to termination solely for archival purposes only. At HP's request, Customer will certify in writing to HP that Customer has complied with these requirements.

7. LICENSE TRANSFER

Customer may not sublicense, assign, transfer, rent, or lease the Software or the Software License to any other party except as permitted in this section. Except as provided in sub-section C.6.d above, HP Branded Software licenses are transferable subject to HP's prior written authorization and payment to HP of any applicable fees or compliance with applicable third party terms. Upon transfer of the Software License Customer's rights under the License will terminate and Customer will immediately deliver the Software and all copies to the transferee. The transferee must agree in writing to the terms of the Software License, and, upon such agreement, the transferee will be considered the "Customer" for purposes of the license terms. Customer may transfer firmware only upon transfer of the associated Hardware.

8. COMPLIANCE

Customer agrees that HP may audit Customer's compliance with the Software License terms. Any such audit would be at HP's expense, require reasonable notice, and would be performed during normal business hours. If an audit reveals underpayments then Customer will immediately pay HP such underpayments together with the costs reasonably incurred by HP in connection with the audit and seeking compliance with this sub-section.

9. WARRANTY

HP Branded Software will materially conform to its Specifications. If a warranty period is not specified for HP Branded Software, the warranty period will be ninety (90) days from the delivery date.

10. VIRUS WARRANTY

HP warrants that any physical media containing HP Branded Software will be shipped free of viruses.

11. WARRANTY LIMITATION

HP does not warrant that the operation of Software will be uninterrupted or error free, or that Software will operate in Hardware and Software combinations other than as expressly required by HP in the Product Specifications or that Software will meet requirements specified by Customer.

12. EXCLUSIVE REMEDIES

If notified of a valid warranty claim during the warranty period, HP will, at its option, correct the warranty defect for HP Branded Software, or replace such Software. If HP is unable, within a reasonable time, to complete the correction, or replace such Software, Customer will be entitled to a refund of the purchase price paid upon prompt return of such Software to HP. Customer will pay expenses for return of such Software to HP. HP will pay expenses for shipment of repaired or replacement Software to Customer. This sub-section C.12 states HP's entire liability for warranty claims.

13. IMPLIED LICENSE

There are no implied licenses.



D. HP SUPPORT TERMS

1. SUPPORT SERVICES

- a. Description of Support. HP will deliver Support according to the description of the offering, eligibility requirements, service limitations, and Customer responsibilities described in the relevant Transaction Documents.
- b. Cancellation. Customer may cancel Support orders or delete Products from Support upon thirty (30) days written notice, unless otherwise stated in a Transaction Document. HP may discontinue Support for Products and specific Support services no longer included in HP's Support offering upon sixty (60) days written notice, unless otherwise stated in a Transaction Document. If Customer cancels prepaid Support, HP will refund Customer a pro-rata amount for the unused prepaid Support subject to any restrictions or applicable early termination fees as set forth in a Transaction Document.
- c. Return to Support. If Customer allows Support to lapse, HP may charge Customer additional fees to resume Support or require Customer to perform certain hardware or software upgrades. Such fees may be set forth in a Transaction Document or provided to Customer at the time of the request to return to Support.
- d. Local Availability. Customer may order Support from HP's current Support offerings. Some offerings, features, and coverage (and related Products) may not be available in all countries or areas. In addition, delivery of Support outside of the applicable HP coverage areas may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.
- e. Relocation. Relocation of any Products under Support is the responsibility of Customer and is subject to local availability as detailed in sub-section D.1.d, and may result in changes to Support fees. Reasonable advance notice to HP may be required to begin Support after relocation. For Software Products, any relocation is also subject to the license terms for such Software. Customer may be required to execute amended or new Transaction Documents as a result of relocation.
- f. Multi-vendor Support. HP provides Support for certain non-HP Branded Products. The relevant Transaction Document will specify availability and coverage levels, and governs delivery of multi-vendor Support, whether or not the non-HP Branded Products are under warranty. HP may discontinue Support of non-HP Branded Products if the manufacturer or licensor ceases to provide Support for such Products.
- g. Service Providers. HP reserves the right and Customer agrees to HP's use of HP-authorized service providers to assist in the delivery of Support.
- h. Modifications. Customer will allow HP, at HP's request and at no additional charge, to modify Products to improve operation, supportability, and reliability, or to meet legal requirements.
- i. Support Warranty. HP warrants that it will perform Support using generally recognized commercial practices and standards.
- j. Exclusive Remedies. HP will re-perform Support not performed in accordance with the warranty herein. This sub-section D. 1.j states HP's entire liability for Support warranty claims.

2. PRICING, INVOICING, AND ADDITIONAL SERVICES

- a. Pricing. Except for prepaid Support or as otherwise stated in a Transaction Document, HP may change Support prices upon sixty (60) days written notice.
- b. Additional Services. Additional services performed by HP at Customer's request that are not included in Customer's purchased Support will be chargeable at the applicable published service rates for the country where the service is performed.
- c. Invoicing. Invoices for Support will be issued in advance of the Support period. HP Support invoices and related documentation will be produced in accordance with HP system standards. Additional levels of detail requested by Customer may be chargeable.

3. SITE AND PRODUCT ACCESS

Customer shall provide HP access to the Products covered under Support; and if applicable, adequate working space and facilities within a reasonable distance of the Products; access to and use of information, customer resources, and facilities as reasonably determined necessary by HP to service the Products; and other access requirements described in the relevant Transaction Document. If Customer fails to provide such access, resulting in HP's inability to provide Support, HP shall be entitled to charge Customer for the Support call at HP's published service rates. Customer is responsible for removing any Products ineligible for Support, as advised by HP, to allow HP to perform Support. If delivery of Support is made more difficult because of ineligible Products, HP will charge Customer for the extra work at HP's published service rates.

4. HARDWARE PRODUCT SUPPORT

- a. Minimum Configuration. Customer must purchase the same level of Hardware Support and for the same coverage period for: all Products within a minimum supportable system unit (i.e. all components within a server, storage, or network device) to allow for proper execution of standalone and operating system diagnostics for the configuration.



- b. Eligibility. For initial and on-going Support eligibility Customer must maintain all Hardware Products at the latest HP-specified configuration and revision levels and in HP's reasonable opinion, in good operating condition.
- c. Loaner Units. HP maintains title and Customer shall have risk of loss or damage for loaner units if provided at HP's discretion as part of Hardware Support or warranty services and such units will be returned to HP without lien or encumbrance at the end of the loaner period.
- d. Maximum Use Limitations. Certain Hardware Products have a maximum usage limit, which is set forth in the manufacturer's operating manual or the technical data sheet. Customer must operate such Products within the maximum usage limit.
- e. Compatible Cables and Connectors. Customer will connect Hardware Products covered under Support with cables or connectors (including fiber optics if applicable) that are compatible with the system, according to the manufacturer's operating manual.
- f. Support for Accessories. HP may provide Hardware Support for cables, connectors, interfaces, and other accessories if Customer purchases Support for such accessories at the same Hardware service level purchased for the Products with which they are used.
- g. Consumables. Hardware Support does not include the delivery, return, replacement, or installation of supplies or other consumable items (including, but not limited to, operating supplies, magnetic media, print heads, ribbons, toner, and batteries) unless otherwise stated in a Transaction Document.
- h. Replacement Parts. Parts provided under Hardware Support may be whole unit replacements or be new or functionally equivalent to new in performance and reliability and warranted as new. Replaced parts become the property of HP, unless HP agrees otherwise and Customer pays any applicable charges.

5. SOFTWARE PRODUCT SUPPORT

- a. Eligibility. Customer may purchase available Software Support for HP Branded Software only if Customer can provide evidence it has rightfully acquired an appropriate HP license for such Software. HP will be under no obligation to provide Support due to any alterations or modifications to the Software not authorized by HP or for Software for which Customer cannot provide a sufficient proof of a valid license. Unless otherwise agreed by HP, HP only provides Support for the current Version and the immediately preceding Version of HP Branded Software, and then only when HP Branded Software is used with hardware or software included in HP-specified configurations at the specified Version level.
- b. Documentation. If Customer purchases a Software Support offering that includes documentation updates along with the right to copy such updates, Customer may copy such updates only for Products under such coverage. Copies must include appropriate HP trademark and copyright notices.

6. USE OF PROPRIETARY SERVICE TOOLS FOR SUPPORT

HP will require Customer's use of certain hardware and/or software system and network diagnostic and maintenance programs ("Proprietary Service Tools"), as well as certain diagnostic tools that may be included as part of the Customer's system, for delivery of Support under certain coverage levels. Proprietary Service Tools are and remain the sole and exclusive property of HP, are provided "as is," and include, but are not limited to: remote fault management software, network Support tools, Insight Manager, Instant Support, and Instant Support Enterprise Edition (known as "ISEE"). Proprietary Service Tools may reside on the Customer's systems or sites. Customer may only use the Proprietary Service Tools during the applicable Support coverage period and only as allowed by HP. Customer may not sell, transfer, assign, pledge, or in any way encumber or convey the Proprietary Service Tools. Upon termination of Support, Customer will return the Proprietary Service Tools or allow HP to remove these Proprietary Service Tools. Customer will also be required to:

- a. allow HP to keep the Proprietary Service Tools resident on Customer's systems or sites, and assist HP in running them;
- b. install Proprietary Service Tools, including installation of any required updates and patches;
- c. use the electronic data transfer capability to inform HP of events identified by the software;
- d. if required, purchase HP-specified remote connection hardware for systems with remote diagnosis service; and
- e. provide remote connectivity through an approved communications line.

7. CUSTOMER RESPONSIBILITIES

- a. Data Backup. To reconstruct lost or altered Customer files, data, or programs, Customer must maintain a separate backup system or procedure that is not dependent on the Products under Support.
- b. Temporary Workarounds. Customer will implement temporary procedures or workarounds provided by HP while HP works on permanent solutions.
- c. Hazardous Environment. Customer will notify HP if Customer uses Products in an environment that poses a potential health or safety hazard to HP employees or subcontractors. HP may require Customer to maintain such Products under HP supervision and may postpone service until Customer remedies such hazards.



- d. Authorized Representative. Customer will have a representative present when HP provides Support at Customer's site.
- e. Product List. Customer will create and maintain a list of all Products under Support including: the location of the Products, serial numbers, the HP-designated system identifiers, and coverage levels. Customer shall keep the list updated during the applicable Support period.

8. ACCESS TO HP SOLUTION CENTER AND IT RESOURCE CENTER

- a. Designated Callers. Customer will identify a reasonable number of callers, as determined by HP and Customer ("Designated Callers"), who may access HP's customer Support call centers ("Solution Centers").
- b. Qualifications. Designated Callers must be generally knowledgeable and demonstrate technical aptitude in system administration, system management, and, if applicable, network administration and management and diagnostic testing. HP may review and discuss with Customer any Designated Caller's experience to determine initial eligibility. If issues arise during a call to the Solution Center that, in HP's reasonable opinion, may be a result of a Designated Caller's lack of general experience and training, the Customer may be required to replace that Designated Caller. All Designated Callers must have the proper system identifier as provided in the Transaction Documents or by HP when Support is initiated. HP Solution Centers may provide support in English or local language(s), or both.
- c. HP IT Resource Center. HP IT Resource Center is available via the worldwide web for certain types of Support. Customer may access specified areas of the HP IT Resource Center. File Transfer Protocol access is required for some electronic services. Customer employees who submit HP Solution Center service requests via the HP IT Resource Center must meet the qualifications set forth in sub-section D. 8.b above.
- d. Telecommunication Charges. Customer will pay its own telecommunication charges associated with using HP IT Resource Center, installing and maintaining ISDN links and Internet connections (or HP-approved alternatives) to the HP Solution Center, or using the Proprietary Service Tools.

HP AGREEMENT NUMBER: _____

EFFECTIVE DATE: _____

Agreed to by:
HP Entity: _____

Agreed to by:
Customer Name: _____

Authorized Signature: _____
Print Name: _____
Date: _____
Address: _____

Authorized Signature: _____
Print Name: _____
Date: _____
Address: _____

Contact Name: _____
Phone: _____
E-Mail: _____
Fax: _____

Contact Name: _____
Phone: _____
E-Mail: _____
Fax: _____