



## ENTCO CUSTOMER PASS THROUGH TERMS

Entco Government Software LLC's ("**Entco's**"), a Micro Focus International plc ("**Micro Focus**") company, obligations with respect to products or services supplied by Entco and procured by an end-user customer (hereinafter "**Customer**") from authorized Entco Business Partners are limited to the terms and conditions in these ENTCO CUSTOMER PASS THROUGH TERMS ("**Terms**") and the specific Supporting Material included with the Entco supplied products and services. Entco is not responsible for the acts or omissions of Entco Business Partners, for any obligations undertaken by them or representations that they may make, or for any other products or services that they supply to Customer.

- 1. Orders.** "**Order**" means the accepted order including any Entco-branded supporting material which is identified as incorporated either by attachment or reference ("**Supporting Material**"). Supporting Material may include (as examples) product lists, hardware or software specifications, service descriptions, data sheets and their supplements and statements of work ("**SOWs**"), Entco Packaged Support Service Agreement, published warranties and service level agreements, and may be available to Customer in hard copy or by accessing a designated Entco website.
- 2. Title.** When Entco delivers to Customer directly, risk of loss or damage and title for hardware products will pass upon delivery to Customer or its designee.
- 3. Installation.** If Entco is providing installation with the product purchase, Entco's site guidelines (available upon request) will describe Customer requirements. Entco will conduct its standard installation and test procedures to confirm completion.
- 4. Support Services.** Entco's support services will be described in the applicable Supporting Material, which will cover the description of Entco's offering, eligibility requirements, service limitations and Customer responsibilities, as well as the Customer systems supported, and for Entco Packaged Support Services purchases, the Entco Packaged Support Service Agreement governing terms.
- 5. Software-as-a-Service.** "**Entco Software-as-a-Service**" or "**Entco SaaS**" mean the Entco branded online software solutions that Entco makes available for Customer use through a network connection, each as described in the applicable Supporting Material, Entco and Customer obligations with respect to Entco SaaS are set forth in the SaaS Exhibit included in these Terms.
- 6. Professional Services.** Entco will deliver any ordered IT consulting, training, or other services as described in the applicable Supporting Material.
- 7. 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 Entco.
- 8. Eligibility.** Entco'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 Entco or authorized by Entco;
  3. failure or functional limitations of any non-Entco software or product impacting systems receiving Entco support or service;
  4. malware (e.g. virus, worm, etc.) not introduced by Entco; or
  5. abuse, negligence, accident, fire or water damage, electrical disturbances, transportation by Customer, or other causes beyond Entco's control.
- 9. Dependencies.** Entco'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.



- 10. Change Orders.** Requests to change the scope of services or deliverables will require a change order signed by both parties.
- 11. Product Performance.** All Entco-branded hardware products are covered by Entco's limited warranty statements that are provided with the products or otherwise made available. Hardware warranties begin on the date of delivery or if applicable, upon completion of Entco installation, or (where Customer delays Entco installation) at the latest 30 days from the date of delivery. Non-Entco branded products receive warranty coverage as provided by the relevant third party supplier.
- 12. Software Performance.** Entco warrants that its branded software products will conform materially to their specifications and be free of malware at the time of delivery. Entco warranties for software products will begin on the date of delivery and unless otherwise specified in Supporting Material, will last for ninety (90) days. Entco 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 Entco in Supporting Material.
- 13. Services Performance.** Services are performed using generally recognized commercial practices and standards. Customer agrees to provide prompt notice of any such service concerns and Entco will re-perform any services that fail to meet this standard.
- 14. Services with Deliverables.** If Supporting Material for services defines specific deliverables, Entco warrants those deliverables will conform materially to their written specifications for 30 days following delivery. If Customer notifies Entco of such non-conformity during the 30 day period, Entco will promptly remedy the impacted deliverables or refund to Customer the fees paid for those deliverables and Customer will return those deliverables to Entco.
- 15. Product Warranty Claims.** When we receive a valid warranty claim for an Entco hardware or software product, Entco will either repair the relevant defect or replace the product. If Entco is unable to complete the repair or replace the product within a reasonable time, Customer will be entitled to a full refund upon the prompt return of the product to Entco (if hardware) or upon written confirmation by Customer that the relevant software product has been destroyed or permanently disabled. Entco will pay for shipment of repaired or replaced products to Customer and Customer will be responsible for return shipment of the product to Entco.
- 16. Remedies.** These Terms state all remedies for warranty claims. To the extent permitted by law, Entco disclaims all other warranties.
- 17. Intellectual Property Rights.** No transfer of ownership of any intellectual property will occur under these Terms. Customer grants Entco a non-exclusive, worldwide, royalty-free right and license to any intellectual property that is necessary for Entco and its designees to perform the ordered support services. If deliverables are created by Entco specifically for Customer and identified as such in Supporting Material, Entco hereby grants Customer a worldwide, non-exclusive, fully paid, royalty-free license to reproduce and use copies of the deliverables internally.
- 18. Intellectual Property Rights Infringement.** Entco will defend and/or settle any claims against Customer that allege that an Entco-branded product or service as supplied under these Terms infringes the intellectual property rights of a third party. Entco will rely on Customer's prompt notification of the claim and cooperation with our defense. Entco 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. Entco 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 Supporting Material except that Entco is not responsible for claims resulting from deliverables content or design provided by Customer.
- 19. License Grant.** Entco grants Customer a non-exclusive license to use the version or release of the Entco-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-Entco branded software, the third party's license terms will govern its use.

- 20. Updates.** Customer may order new software versions, releases or maintenance updates (“**Updates**”), if available, separately or through an Entco 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 Entco makes them available to Customer.
- 21. License Restrictions.** Entco may monitor use/license restrictions remotely and, if Entco 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 authorized users only. Customer will also not modify, reverse engineer, disassemble, decrypt, decompile or make derivative works of any software licensed to Customer under these Terms unless permitted by statute, in which case Customer will provide Entco with reasonably detailed information about those activities.
- 22. License Term and Termination.** Unless otherwise specified, any license granted is perpetual, provided however that if Customer fails to comply with these Terms, Entco may terminate the license upon written notice. 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 Entco, except that Customer may retain one copy for archival purposes only.
- 23. License Transfer.** Customer may not sublicense, assign, transfer, rent or lease the software or software license except as permitted by Entco. Entco-branded software licenses are generally transferable subject to Entco's prior written authorization and payment to Entco 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.
- 24. License Compliance.** Entco may audit Customer compliance with the software license terms. Upon reasonable notice, Entco may conduct an audit during normal business hours (with the auditor's costs being at Entco's expense). If an audit reveals underpayments then Customer will pay to Entco such underpayments. If underpayments discovered exceed five (5) percent of the contract price, Customer will reimburse Entco for the auditor costs.
- 25. Confidentiality.** Information exchanged under these Terms 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 these Terms, 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.
- 26. Personal Information.** Each party shall comply with their respective obligations under applicable data protection legislation. Entco does not intend to have access to personally identifiable information (“**PII**”) of Customer in providing services. To the extent Entco has access to Customer PII stored on a system or device of Customer, such access will likely be incidental and Customer will remain the data controller of Customer PII at all times. Entco will use any PII to which it has access strictly for purposes of delivering the services ordered.
- 27. 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 Entco's standard commercial license.

- 28. 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. Entco may suspend its performance under these Terms to the extent required by laws applicable to either party.
- 29. Limitation of Liability.** Entco's liability to Customer under these Terms is limited to the greater of \$1,000,000 or the amount payable by Customer to Entco for the relevant Order. Neither Customer nor Entco 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 these Terms; nor any liability which may not be excluded or limited by applicable law.
- 30. 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.
- 31. Order of Precedence.** To the extent these Terms conflict with the Entco Packaged Support Services Agreement, the Entco Packaged Support Services Agreement shall take precedence.
- 32. General.** These Terms represent our entire understanding with respect to its subject matter and supersede any previous communication or agreements that may exist. Modifications to these Terms will be made only through a written amendment signed by Entco and Customer. These Terms will be governed by the laws of the country of Entco or the Entco affiliate accepting the Order and the courts of that locale will have jurisdiction. Customer and Entco 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 conflict of law.

## SaaS Exhibit

1. **Exhibit Scope.** Entco's obligations to provide Entco SaaS to Customer are set forth in this Exhibit. In the event of any conflict between the Entco Customer Pass-Through Terms ("**Terms**") and this Exhibit, this Exhibit will prevail for any subject matter relating to Entco SaaS. The term of each Entco SaaS subscription is stated in the applicable Order or Supporting Material and begins on the date that Entco SaaS is made available to Customer ("**SaaS Order Term**").
2. **Access Rights.** During the applicable SaaS Order Term, Customer may access and use the Entco SaaS in accordance with the applicable Supporting Material, the Terms and this Exhibit. Customer is responsible for complying with the terms of Supporting Material, the Terms and this Exhibit. Customer is responsible for any and all use of the Entco SaaS through Customer's credentials or any account that Customer may establish. Customer agrees to maintain the confidentiality of Customer's account, credentials, and any passwords necessary to use Entco SaaS. Should Customer believe that there has been unauthorized use of Customer's account, credentials, or passwords, Customer must immediately notify Entco.
3. **Customer-provided SaaS Data.** Customer is solely responsible for the data, text, audio, video, images, software, and other content input into an Entco system or environment during Customer's access or use of Entco SaaS ("**Customer-provided SaaS Data**"). As between Entco and Customer, Customer is and will remain the sole and exclusive owner of all right, title, and interest in and to all Customer-provided SaaS Data. Customer hereby provides to Entco all necessary rights to Customer-provided SaaS Data to enable Entco to provide the Entco SaaS. Entco will use Customer-provided SaaS Data only as necessary to provide Entco SaaS, technical support, or as otherwise required by law.
4. **Entco SaaS Performance and Operations.** Entco's ability to deliver Entco SaaS will depend on Customer's reasonable and timely cooperation and the accuracy and completeness of any information from Customer needed to deliver the Entco SaaS.
5. **Intellectual Property Rights.** No transfer of ownership of any intellectual property will occur under these Terms. Customer grants Entco a non-exclusive, worldwide, royalty-free right and license to any intellectual property, including Customer-provided SaaS Data that is necessary for Entco and its designees to perform the Entco SaaS.
6. **Entco SaaS Usage Limitations.** Entco SaaS may be used only for Customer's internal business purposes and not for commercialization. Customer will not: (i) exceed any usage limitations identified in the Supporting Material; (ii) except to the extent expressly permitted in Supporting Material, sell, resell, license, sublicense, lease, rent, or distribute Entco SaaS or include Entco SaaS as a service or outsourcing offering, or make any portion of Entco SaaS available for the benefit of any third party; (iii) copy or reproduce any portion, feature, function, or user interface of Entco SaaS; (iv) interfere with or disrupt the integrity or performance of the Entco SaaS; (v) use Entco SaaS to submit, send, or store Customer-provided SaaS Data that is obscene, threatening, libelous or otherwise unlawful or tortious material, violates any third party's privacy rights, or infringes upon or misappropriates intellectual property rights; (vi) use Entco SaaS to disrupt or cause harm to a third party's system or environment; (vii) access Entco SaaS to build a competitive product or service; or (viii) reverse engineer Entco SaaS. Customer is responsible for complying with all terms of use for any software, content, service, or website it loads, creates, or accesses when using Entco SaaS.
7. **Personal Data.**
  - a. If, in the course of providing Entco SaaS, Entco agrees in writing to process Customer Personal Data, Entco shall process such data only as permitted under the Terms and in compliance with data protection legislation to which Entco is subject as a service provider and processor of Customer Personal Data.
  - b. **Customer Personal Data** means personal data of which Customer or its affiliates is the controller and which Entco processes in the course of providing Entco SaaS. The terms "controller", "processor", "process",

“processed”, “processing”, and “personal data” used in the Terms shall be as defined by EU Directive 95/46/EC, unless otherwise defined by applicable data protection legislation.

8. **Data Security.** Entco implements technical and organizational measures to protect Customer-provided SaaS Data. The Supporting Material for each Entco SaaS describes the measures implemented for such Entco SaaS
9. **Entco SaaS Operations.** So long as during the SaaS Order Term, Entco does not materially degrade the functionality, as described in Supporting Material, of the Entco SaaS: (i) Entco may modify the systems and environment used to provide Entco SaaS; and (ii) Entco reserves the right to make any changes to Entco SaaS that it deems necessary or useful to maintain or enhance the quality or delivery of Entco’s services to its customers, the competitive strength of or market for Entco’s services, or the cost efficiency or performance of Entco SaaS. Entco may use global resources, such as Entco affiliates or third parties in worldwide locations to provide Entco SaaS and perform its obligations.
10. **License Grant to Software in connection with Entco SaaS.** To the extent that Entco provides software in connection with Entco SaaS, Entco grants Customer a non-exclusive and non-transferable license to use the version or release of the Entco-branded software listed in the Order or the applicable Supporting Material (the “**Licensed Software**”) during the SaaS Order Term. Unless otherwise stated in writing, Customer may only use the Licensed Software for internal purposes and not for further commercialization. Customer may make a copy or adaptation of the Licensed Software only for archival purposes or when it is an essential step in the authorized use of the Licensed Software. Customer agrees that it will not modify, reverse engineer, disassemble, decrypt, decompile, or make derivative works of any Licensed Software unless permitted by statute, in which case Customer will provide Entco with reasonably detailed information about those activities. For non-Entco branded software, the third party’s license terms will govern its use. Entco may monitor and audit Customer use of the Licensed Software and compliance with any associated license terms and, if Entco makes a license management program available, Customer agrees to install and use it within a reasonable period of time. Customer may not sublicense, assign, transfer, rent, or lease the Licensed Software except as permitted in writing by Entco.
11. **Warranty:** ENTCO WILL PERFORM ENTCO SAAS BY QUALIFIED PERSONNEL AND IN A WORKMANLIKE MANNER CONSISTENT WITH THE SUPPORTING MATERIAL. TO THE EXTENT PERMITTED BY LAW, ENTCO DISCLAIMS ALL OTHER WARRANTIES. ENTCO DOES NOT WARRANT THAT ENTCO SAAS WILL BE UNINTERRUPTED OR ERROR FREE.
12. **Suspension.** Entco may suspend Customer’s access and use rights to Entco SaaS where Customer breaches Sections 2, 3, 6, or 10 of this Exhibit or Customer’s use of Entco SaaS is in violation of law. Customer remains responsible for applicable fees through date of suspension including usage and data storage fees, Customer will not be entitled to service credits during any suspension period.
13. **Effect of Expiration or Termination.** Except for termination for cause, termination of these Terms shall not entitle Customer to any refund, and payment obligations are non-cancelable. Upon expiration or termination of a SaaS Order Term, except as otherwise provided in the Supporting Material:
  - a. Entco may disable all Customer access to the applicable Entco SaaS, and Customer shall promptly return to Entco (or at Entco’s request destroy) any Licensed Software provided with Entco SaaS; and
14. Entco may make available certain data in the format generally provided by Entco, subject to the terms of the applicable Supporting Material.