



**HPE CUSTOMER TERMS - PORTFOLIO**

1. **Parties.** These terms represent the agreement (“**Agreement**” or “**terms**”) that exclusively governs the purchase of products and services from the Hewlett Packard Enterprise entity identified in the signature section below (“**HPE**”) by the Customer entity identified below (“**Customer**”) that the parties entered into on the signature date specified below.
2. **Orders.** “**Order**” means the accepted order including any supporting material which the parties identify as incorporated either by attachment or by making reference (“**Supporting Material**”). Supporting Material may include, as examples, product lists, hardware or software specifications, standard or negotiated service descriptions, technical data (as examples data sheets and updates), technical solutions (as examples specifications, and statements of work (SOWs)), warranties and service level agreements, and may be available to Customer in hard copy or by accessing a designated HPE website.
3. **Scope and Order Placement.** This Agreement will remain in effect until its termination and may be used either for a single Order or as a framework for multiple Orders (Multiple Orders). In addition, this Agreement 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 confirm their agreement to these terms either by signature where indicated at the end or by referencing these terms on Orders. Customer’s Affiliates participate under these terms by placing orders referencing these terms and by specifying those product or service to delivered and/or performed in the same country as the HPE Affiliate accepting the Order. Each HPE Affiliate may include in its acceptance any additional terms or amendments to reflect local law or business practice.
4. **Order Arrangements.** This Agreement duly signed by Customer represents an essential part of Customer’s Orders that are either directly or indirectly confirming its application (i.e by making reference to this Agreement, or that have this Agreement enclosed, or that are making reference to a specific HPE offer that envisages its application). Customer may place Orders with HPE 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. Customer may cancel a hardware Order at no charge by written notice received by HPE up to five (5) business days prior to shipment date.
5. **Prices and Taxes.** Prices will be as quoted in writing by HPE or, in the absence of a written quote, as set out on HPE website, customer-specific portal, or HPE published list price at the time an order is submitted to HPE. Prices are exclusive of taxes, duties, levies, and fees (including installation, shipping, and handling) unless otherwise quoted. If a withholding tax is required by law, Customer has to contact the HPE order representative to discuss appropriate procedures. HPE will charge separately for reasonable out-of-pocket expenses, such as travel expenses incurred in providing professional services.
6. **Invoices and Payment.** Customer agrees to pay all invoiced amounts within thirty (30) days of HPE’s invoice date. HPE may suspend or cancel performance of open Orders or services if Customer fails to make payments when due.
7. **Title and risk of loss.** Risk of loss or damage for hardware products will pass upon delivery to Customer or its designee. Where permitted by law, HPE retains product’s ownership until full payment is received.



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8. **Delivery.** HPE will use all commercially reasonable efforts to deliver products in a timely manner. HPE may elect to deliver software and related product/license information by electronic transmission or via download.
9. **Installation.** If HPE is providing installation with the product purchase, HPE's site guidelines (available upon request) will describe Customer requirements. HPE will conduct its standard installation and test procedures to confirm completion.
10. **Support Services.** HPE's support services will be described in the applicable Supporting Material, which will cover the description of HPE's offering, eligibility requirements, service limitations and Customer responsibilities, as well as the Customer systems supported.
11. **Eligibility.** HPE'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 HPE or authorized by HPE;
  3. failure or functional limitations of any non-HPE software or product impacting systems receiving HPE support or service;
  4. malware (e.g. virus, worm, etc.) not introduced by HPE; or
  5. abuse, negligence, accident, damages arising from chemical, physical or natural elements (e.g. fire or water damage), electrical disturbances, transportation by Customer, or other causes beyond HPE's control.
12. **Professional Services.** HPE will deliver any ordered IT consulting, training or other services (Professional Services) as described in the applicable Supporting Material.
13. **Professional Services Acceptance.** The acceptance process (if any) will be described in the applicable Supporting Material, will apply only to the deliverables specified, and shall not apply to other products or services to be provided by HPE, regardless these products or services are provided or used in connection with Professional Service.
14. **Sub-contract.** In order to perform the services under this Agreement, HPE reserves the right to subcontract, either wholly or partially, any service to other companies belonging to HPE Group, and/or to any other third party. This clause has the effect of Customer's prior authorization.
15. **Dependencies.** HPE'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.
16. **Change Orders.** We each agree to appoint a project representative to serve as the principal point of contact in managing the delivery of services and in dealing with issues that may arise. Notwithstanding art. 1661 of the Italian Civil Code, any requests to change the scope of services or deliverables will require a change order signed by both parties.
17. **Product Performance.** All HPE-branded hardware products are covered by HPE'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 HPE installation, or (where Customer delays HPE installation) at the latest 30 days from the date of delivery. Non-HPE branded products receive warranty coverage as provided by the relevant third party supplier.



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18. **Software Performance.** HPE warrants that its branded software products will conform materially to their specifications and be free of malware at the time of delivery. HPE warranties for software products will begin on the date of delivery and unless otherwise specified in Supporting Material, will last for ninety (90) days. HPE 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 HPE in Supporting Material.
19. **Services Performance.** Services are performed using generally recognized commercial practices and standards. Customer agrees to provide prompt notice of any such service concerns and HPE will re-perform any service that fails to meet this standard.
20. **Services with Deliverables.** If Supporting Material for services define specific deliverables, HPE warrants those deliverables will conform materially to their written specifications for 30 days following delivery. If Customer notifies HPE of such a non-conformity during the 30 days period, HPE will promptly remedy the impacted deliverables or refund to Customer the fees paid for those deliverables and Customer will return those deliverables to HPE. Deliverable means the tangible work product resulting from the performance of Services excluding hardware and software Products and Custom Products.
21. **Product Warranty Claims.** When HPE receives a valid warranty claim for an HPE hardware or software product during the HPE Warranty period, HPE will at its discretion either repair the relevant defect or replace the product. If HPE 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 defective product to HPE (if hardware) or upon written confirmation by Customer that the relevant defective software product has been destroyed or permanently disabled. HPE will pay for shipment of repaired or replaced products to Customer and Customer will be responsible for return shipment of the defective product to HPE.
22. **Remedies.** This Agreement states all remedies for warranty claims. To the extent permitted by law, HPE disclaims all other warranties.
23. **Intellectual Property Rights.** No transfer of ownership of any intellectual property will occur under this Agreement. Customer grants HPE a non-exclusive, worldwide, royalty-free right and license to any intellectual property that is necessary for HPE and its designees to perform the ordered services. If deliverables are created by HPE specifically for Customer and identified as such in Supporting Material, HPE hereby grants Customer a worldwide, non-exclusive, fully paid, royalty-free, non-transferable license to reproduce and use copies of the deliverables internally.
24. **Intellectual Property Rights Infringement.** a) Third-Party Claims. HPE will defend and/or settle any claims against Customer that allege that an HPE-branded product or service as supplied under this Agreement infringes the intellectual property rights of a third party. HPE will rely on Customer's prompt notification of the claim and cooperation with our defense. b) HPE 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. HPE is not responsible for claims resulting from any unauthorized use of the products or services. c) This section shall also apply to deliverables identified as such in the relevant Support Material except that HPE is not responsible for claims resulting from deliverables content or design provided by Customer. This section defines HPE liability limits arising from Intellectual Property Rights Infringement.



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25. **License Grant.** HPE grants Customer a non-exclusive license to use the version or release of the HPE-branded software listed in the Order. For purposes of this Agreement, permitted use is for Customer' internal business purposes only (and not for further commercialization). Customer's Use of such Software is subject to any specific software licensing terms that are provided in the software product or in its Supporting Material. For non-HPE branded software, the third party's license terms will govern its use.
26. **Updates.** Software Versions, releases or maintenance updates ("**Updates**"), if available, may be ordered separately or may be available through an HPE software support agreement. HPE reserves the right to require additional licenses or fees 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 HPE delivers or makes them available to Customer.
27. **License Restrictions.** HPE may monitor use/license restrictions remotely and, if HPE 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 this Agreement unless permitted by statute, in which case Customer will provide HPE with reasonably detailed information about those activities.
28. **License Term and Termination.** Unless otherwise specified, any license granted is perpetual, provided however that if Customer fails to comply with the terms of this Agreement, HPE may terminate the license upon written notice according article 1456 of Italian Civile Code. 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 HPE, except that Customer may retain one copy for archival purposes only.
29. **License Transfer.** Customer may not sublicense, assign, transfer, rent or lease the software or software license except as permitted by HPE. HPE-branded software licenses are generally transferable subject to HPE's prior written authorization and payment to HPE 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.
30. **License Compliance.** HPE may audit Customer compliance with the software license terms. Upon reasonable notice, HPE may conduct an audit during normal business hours (with the auditor's costs being at HPE's expense). If an audit reveals underpayments then Customer will pay to HPE such underpayments. If underpayments discovered exceed five (5) percent of the contract price, Customer will reimburse HPE for the auditor costs.
31. **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 HPE and/or Customer 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



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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.

- 32. Personal Information.** Each party shall comply with their respective obligations under applicable data protection legislation. HPE does not intend to have access to personally identifiable information (“PII”) of Customer in providing services. To the extent HPE 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. HPE will use any PII to which it has access strictly for purposes of delivering the services ordered. The Processing of Personal Data will be compliant with the relevant law, and if performed in Italy, it will be compliant with the Legislative Decree 196/03.
- 33. 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 HPE’s standard commercial license.
- 34. 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. HPE may suspend its performance under this Agreement to the extent required by laws applicable..
- 35. Limitation of Liability.** To maximum extent permitted by law, HPE’s liability to Customer under this Agreement is limited to the greater of Euro 1.000.000,00 or the amount payable by Customer to HPE for the relevant Order. Except to the extent required by law, in no event will either party be liable for lost revenues or profits, systems unavailability, loss or damage of data, or indirect, special or consequential costs or damages. This clause defines the maximum liability of HPE within the limitations allowable under the law applicable to the Order.
- 36. Disputes.** If Customer is dissatisfied with any products or services purchased under these terms and disagrees with HPE’s proposed resolution, both Parties agree to promptly escalate the issue to a Vice President, or other equivalent executive in their respective organizations for an amicable resolution without prejudice to the right to later seek a legal remedy.
- 37. Legislative Decree 231/2001.**  
Customer agrees:
1. to comply with and to commit its employees, agents and delegates to comply with HPE Standards of Business Conduct and its Local Addendum. Customer also declares to have examined HPE Standard of Business Conduct and its Local Addendum. On this point, Customer declares to have examined the HPE Standards of Business Conduct and its Local Addendum which can be find at <http://welcome.hp.com/country/it/it/welcome.html>;
  2. to comply with and to commit its employees, agents and delegates to comply with the rules of Legislative Decree 231/2001 and its changes and integrations. Customer also grants to refrain and to its employees, agents or delegates to refrain from committing crimes provided by the aforementioned Legislative Decree 231/2001. On this point, Customer declares to have examined the HPE “Modello Organizzativo” which also could be find at <http://welcome.hp.com/country/it/it/welcome.html>
  3. Customer undertakes to inform, by prompt written notice, HPE “Organismo di Vigilanza e Controllo” about any violation involving HPE (also in a prospective basis) and relevant to the crimes set forth in Legislative Decree 231/2001, and subsequent amendments and integrations,



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or violation involving HPE “Modello Organizzativo” or HPE Standards of Business Conduct, which Customer has learnt - directly or indirectly (also through its employees agents or delegates) - during the execution of this Agreement. In case of non-fulfillment and/or legal proceedings attributable to Customer and arising from or connected with these obligations, which will be considered as a serious breach of this Agreement, HPE reserves the right to terminate this Agreement, upon written notice, according to article 1456 of the Italian Civil Code, without prejudice to any further damages.

- 38. Waste electrical and electronic equipment.** Subject to the regulations applicable to non consumer clients, the proper recovery/recycling of waste resulting from electrical and/or electronic items arising at the Customer’s locations in the European Union will be managed by HPE, provided that the waste equipment is first returned by the Customer to an HPE designated collection point; it being understood that Customer is the only producer of waste under the applicable law. HPE will provide addresses of these collection points when requested by the Customer. HPE will only pay the recovery/recycling costs once the customers have returned the computer equipment and printing or peripheral devices to an HPE designated collection point. These terms apply only to HPE Branded waste whether or not a replacement product is being supplied. Related additional services such as equipment collection from the Customer’s site and data destruction can be provided on request at additional cost.
- 39. Health and Safety.** HPE agrees to comply with any legal requirements stated in the Legislative Decree 81/2008 concerning the adoption of health and safety measures in workplace. According to let. B), paragraph 1 of art. 26 of Legislative Decree 81/2008, Customer agrees to provide HPE with detailed information about the specific risks existing in the working environment where the activities are going to be carried out by HPE and about the prevention measures and the necessary danger warnings that Customer adopts relating to his activities. Customer and HPE agrees to cooperate in the implementation of prevention and protection measures against risks of accidents in workplace relating to the work activities stated in the contract; Customer must also coordinate these measures and inform HPE also in order to eliminate risks due to interference between the various contractors involved in the performance of the service. In order to achieve the purposes of the previous paragraph of this Article, Customer provides in process a “Documento Unico di Valutazione dei Rischi Interferenziali” (DUVRI), which is attached to this Agreement, and sets out the measures adopted to eliminate or at least minimize the risk of interference. According to paragraph 5 of article 26 of Legislative Decree 81/2008 and unless otherwise stated in the Supporting Material, there are no fees concerning security.
- 40. Traceability of financial flows.** In the event that the Customer is awarded a public sector contract which Customer will fulfill through this Agreement, following article 3 of law No. 136/2010 and following amendments, the parties agree on assuming all the obligations set forth in this article in relation to the traceability of financial flows. Should the parties not to be in compliance with these obligations, this Agreement shall be considered as null and void. The parties agree to communicate to the public sector customer and to the relevant territorial Prefect’s office, possible infringements of the above mentioned obligations.
- 41. 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.
- 42. 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 of 30 [thirty] days 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 other procedures for insolvency, the other party may terminate this Agreement with immediate effect by notice served by



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registered letter,. Any terms in this Agreement which by their nature extend beyond termination or expiration of this Agreement will remain in effect until fulfilled and will apply to both parties' respective successors and permitted assigns.

- 43. 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 in which HPE or the HPE Affiliate accepting the Order has the principal place of business, excluding rules as to choice and conflict of law. For disputes arising from an Order of this Agreement, the courts of the place where HPE Affiliate accepting the Order has the principal place of business will have exclusive jurisdiction, except that HPE or its Affiliate may, at their option, bring suit for payment in the country where the Customer Affiliate that placed the Order is located. Customer and HPE agree that the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 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.

Addendum: TS- Supplemental Data Sheet- (November 2015)

According to articles 1341-1342 of the Italian Civil Code, Parties declare to accept the clauses provided by:

Agreement: art. 4 (Order Arrangements), art. 5 (Prices and Taxes), art. 6 (Invoices and Payment), art. 7 (Title and risk of loss), art. 14 (Sub-contract), art. 16 (Change Orders), art. 17 (Product Performance), art. 18 (Software Performance), art. 19 (Services Performance), art. 21 (Product Warranty Claims), art. 22 (Remedies), art. 23 (Intellectual Property Rights), art. 24 (Intellectual Property Rights Infringement), art. 25 (License Grant), art. 27 (License Restrictions), art. 28 (License Term and Termination), art. 29 (License Transfer), art. 30 (License Compliance), art. 31 (Confidentiality), art. 32 (Personal Information), art. 33 (US Federal Government Use), art. 34 (Global Trade compliance), art. 35 (Limitation of Liability), art. 36 (Disputes), art. 37 (Legislative Decree 231/2001), art. 38 (Waste electrical and electronic equipment), art. 39 (Health and Safety), art. 42 (Termination), art. 43 (Entire Agreement, applicable law and jurisdiction).

TS-Supplemental Data Sheet: Art.1 (Return to Support, Use of Proprietary Service Tools), art.2 (Multi-vendor Support), art.3 (Site and Product Access, Loaner Units, Data Backup, Temporary Workarounds, Solution Center Caller Qualifications), art.4 (Cancellation, pricing, replacement parts).

## SUPPLEMENTAL DATA SHEET

This Supplemental Data Sheet provides additional general requirements and limitations that apply to HPE's support offerings, which are set forth in detail in offering-specific datasheets with the exception of those support offerings delivered by HPE Software.

### 1. SERVICE ELIGIBILITY

- **Hardware Support-General Eligibility.** Hardware products must be in good operating condition, as reasonably determined by HPE, to be eligible for placement under support. You must also maintain eligible products at the latest HPE-specified configuration and revision levels.
- **Return to Support.** If you allow support to lapse, HPE may charge you additional fees to resume support or require you to perform certain hardware or software upgrades.
- **Use of Proprietary Service Tools.** HPE may require you to use certain hardware and/or software system and network diagnostic and maintenance programs



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("Proprietary Service Tools"), as well as certain diagnostic tools that may be included as part of the your system. Proprietary Service Tools are and remain the sole and exclusive property of HPE, and are provided "as is." Proprietary Service Tools may reside on your systems or sites. You may only use the Proprietary Service Tools during the applicable Support coverage period and only as allowed by HPE and you may not sell, transfer, assign, pledge, or in any way encumber or convey the Proprietary Service Tools. Upon termination of Support, you will return the Proprietary Service Tools or allow HPE to remove these Proprietary Service Tools. You will also be required to:

- Allows HPE to keep the Proprietary Service Tools resident on your systems or sites, and assist HPE in running them;
- Install Proprietary Service Tools, including installation of any required updates and patches;
- Use the electronic data transfer capability to inform HPE of events identified by the software;
- If required, purchase HPE-specified remote connection hardware for systems with remote diagnosis service; and
- Provide remote connectivity through an approved communications line.
- You may not modify, reverse engineer, disassemble, decrypt, decompile or make derivative works of the Proprietary Service Tools. If you have a mandatory right to do so under statute, you must inform HPE in writing prior to making such modifications.

## 2. SUPPORT LIMITATIONS

- **Local Availability of Support.** 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 HPE coverage areas may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.
- **Version Support.** Unless otherwise agreed by HPE in writing, and for those offerings not delivered by HPE Software, HPE only provides support for the current version and the immediately preceding version of HPE branded software, and provided that HPE branded software is used with hardware or software included in HPE-specified configurations at the specified version level. "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 to our customers.
- **Relocation and impact on Support.** Relocation of any products under support is your responsibility and is subject to local availability and fee changes. Reasonable advance notice to HPE may be required to begin support after relocation. For products, any relocation is also subject to the license terms for such products.
- **Multi-vendor Support.** HPE provides support for certain non-HPE branded products. The relevant data sheet will specify availability and coverage levels and the support will be provided accordingly, whether or not the non-HPE branded products are under warranty. HPE may discontinue support of non-HPE branded products if the manufacturer or licensor ceases to provide support for them.
- **Modifications.** You will allow HPE, at HPE's request, and at no additional charge, to modify products to improve operation, supportability, and reliability, or to meet legal requirements.

## 3. CUSTOMER RESPONSIBILITIES

- **Site and Product Access.** You will provide HPE 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 HPE to service the



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products; and other access requirements described in the relevant data sheet. If you fail to provide such access, resulting in HPE's inability to provide support, HPE shall be entitled to charge you for the support call at HPE's published service rates. You are responsible for removing any products ineligible for support, as advised by HPE, to allow HPE to perform support. If delivery of support is made more difficult because of ineligible products, HPE will charge you for the extra work at HPE's published service rates.

- **Licenses and Updates.** You may purchase available product support for HPE branded products only if you can provide evidence that you have rightfully acquired an appropriate HPE license for the products, and you may not alter or modify the products unless authorized by HPE at any time. Your right to use firmware and software updates ("Updates") provided under HPE Support or warranty or if otherwise made available to you is co-extensive with your license to the underlying product. However in addition:
  - You may not use Updates to provide services to third parties
  - You may not make copies and distribute, resell or sublicense Updates to third parties
  - You may not copy Updates or make them available on a public or external distributed network. This means that you may not copy Updates for products that are not under support by HPE.
  - You may not allow access to Updates on an intranet unless it is restricted to authorized users.
  - You cannot make copies of and distribute Updates on devices that are not supported by HPE.
  - You may make only make one copy of the Updates for archival purposes or when it is an essential step in authorized use.
  - You may not modify, reverse engineer, disassemble, decrypt, decompile or make derivative works of the Updates. If you have a mandatory right to do so under statute, you must inform HPE in writing prior to making such modifications.
  - HPE may terminate your license to use the Updates upon written notice if you fail to comply with these terms.
  - If you authorize a third-party to act as your agent and download Updates on your behalf, using your entitlement, you are strictly and wholly liable for your agents' adherence to the terms of your contract with HPE, including these license terms. In addition, all parties must execute HPE's agency agreement to allow for such access by the third party.
- **Software Support Documentation and Right to Copy.** You may only copy documentation updates if you purchased the right to copy them for the associated products. Copies must include appropriate HPE trademark and copyright notices.
- **Loaner Units.** HPE maintains title and you shall have risk of loss or damage for loaner units if provided at HPE's discretion as part of hardware support or warranty services and such units will be returned to HPE without lien or encumbrance at the end of the loaner period.
- **Hardware Support: Compatible Cables and Connectors.** You will connect hardware products covered under support with cables and connectors (including fiber optics if applicable) that are compatible with the system, according to the manufacturer's operating manual.
- **Data Backup.** So that you can reconstruct your lost or altered files, data, or programs, you must maintain a separate backup system or procedure that is not dependent on the products under support.
- **Temporary Workarounds.** If requested by HPE, you will implement temporary procedures or workarounds provided by HPE while HPE works on a permanent solution.
- **Hazardous Environment.** You will notify HPE if you use products in an environment that poses a potential health or safety hazard to HPE employees or subcontractors. HPE may require you to maintain such products under HPE supervision and may postpone service until you remedy such hazards.



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- **Authorized Representative.** You will have a representative present when HPE provides support at your site.
- **Product List.** You will create, maintain and update a list of all products under support including: the location of the products, serial numbers, the HPE-designated system identifiers, and coverage levels.
- **Solution Center Designated Callers.** You will identify a reasonable number of callers, as determined by HPE and Customer (“Designated Callers”), who may access HPE’s customer Support call centers (“Solution Centers”) or online help tools.
- **Solution Center Caller 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. HPE may review and discuss with you any Designated Caller’s experience to determine initial eligibility. If issues arise during a call to the Solution Center that, in HPE’s reasonable opinion, may be a result of a Designated Caller’s lack of general experience and training, you may be required to replace that Designated Caller. All Designated Callers must have the proper system identifier as provided to you when Support is initiated. Solution Centers may provide support in English or local languages, or both.
- **HIPAA Customers.** You represent that you are not a Covered Entity or Business Associate under the U.S. Health Insurance Portability and Accountability Act (HIPAA), and that you will not be creating, receiving, maintaining, or transmitting protected health information. If you determine that you are a Covered Entity or Business Associate, you agree to notify HPE and the parties agree to negotiate a mutually agreeable Business Associate Agreement.

## 4. GENERAL PROVISIONS

- **Cancellation.** Unless otherwise agreed in writing, you may only cancel support orders or delete products from an existing support order upon sixty (60) days’ written notice if you sell or discontinue use of the products under support, or upgrade to a newer HPE technology that is maintained under HPE support. HPE reserves the right to audit customer’s installed base to verify compliance with this provision. HPE may discontinue support for products and specific support services no longer included in HPE’s support offering upon sixty (60) days written notice, unless otherwise agreed in writing. If applicable, HPE will refund you a pro-rata amount for any unused prepaid support if canceled for the reasons as set forth above, subject to any other restrictions or early termination fees as may be set forth in writing.
- **Pricing.** Except for prepaid support or if otherwise agreed in writing, HPE may change support prices upon sixty (60) days’ written notice.
- **Additional Services.** Additional services performed by HPE at your request, and that are not included in your purchased support, will be chargeable at the applicable published service rates for the country where the service is performed.
- **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 HPE, unless HPE agrees otherwise and you pay any applicable charges.
- **Media Sanitization.** You are responsible for properly sanitizing or removing data from products that may be replaced or returned to HPE as part of the repair process to ensure the safeguarding of your data. For more information on your responsibilities, go to [www.hpe.com/media/handling](http://www.hpe.com/media/handling).
- **Data Protection.** To the extent HPE processes personal data on your behalf in the course of providing the services, the HPE Support Services – Data Privacy and Security Agreement found at [www.hpe.com/us/en/legal/customer-privacy.html](http://www.hpe.com/us/en/legal/customer-privacy.html) shall apply.
- **Audit.** HPE may audit your compliance with these terms. Upon reasonable notice, HPE may conduct an audit during normal business hours (with auditor’s costs being at HPE’s expense). If a software license audit reveals underpayments then you will pay to HPE such underpayments. If underpayments discovered exceed five percent of the contract price, you will reimburse HPE for the auditor costs.



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