**Dynatrace Addendum**

Dynatrace Addendum (the “**Dynatrace Terms**”) is made a part of Provider’s generally applicable terms and conditions in effect as of the date of initial delivery and any associated orders (the “**Provider Terms**”).

If there is a conflict between the Dynatrace Terms and Provider Terms, the Dynatrace Terms control (except to the extent stated by specific reference to the Dynatrace Terms in an ordering document executed by both parties). In the absence of Provider Terms, the Dynatrace Terms operate as a standalone agreement.

“**Agreement**” means Provider Terms as supplemented and modified by these Dynatrace Terms.

“**Products**” means the software, hosted services, professional services, content licenses and any related services and resulting deliverables provided to Dynatrace by Provider.

“**Dynatrace**” includes Dynatrace LLC (or any of its affiliates that receive or access Products) and “Provider” includes its affiliates that deliver Products to Dynatrace.

**1. Governing Principles of Our Relationship.** No term is agreed to, or will have any force or effect, that provides for, or would otherwise have the effect of:

* allowing Provider to audit Dynatrace or requiring Dynatrace to certify any usage;
* limiting Dynatrace’s ability to independently develop or offer any products or services the same as or similar to, or competitive with, those of Provider in any manner;
* granting a license to or assigning any of Dynatrace’s intellectual property rights, except: (a) to the extent that Provider requires use of Dynatrace trademarks to provide the service subject to the Trademark Usage Guidelines and brand identity guidelines provided by Dynatrace, and (b) as provided in paragraph 4;
* allowing any exclusivity in favor of Provider or otherwise limiting Dynatrace’s ability to enter into similar agreements with third parties;
* holding any Dynatrace entity responsible for obligations or liabilities of any other Dynatrace affiliate;
* prohibiting Dynatrace from soliciting or hiring any individual or company; or
* limiting Dynatrace’s ability to exercise its intellectual property rights or exercise any legal remedies available to it under law or the Agreement in connection therewith.

**2. Payments.** The parties agree that NET 60 terms will apply to all payments paid or payable by Dynatrace under the Agreement. In the event of a good faith dispute for payment on any invoice, Dynatrace will, within 30 days of receipt of the invoice, notify Dynatrace in writing of the dispute and the parties will use commercially reasonable efforts to resolve such dispute. Undisputed amounts remain payable as provided herein and in the relevant ordering document.

**3. Products & Services.**

***Hosted Services.*** If providing hosted services (such as SaaS) to Dynatrace, Provider will provide Dynatrace with access to and use of the hosted services and a worldwide license to any software intended to be used with the hosted services. Dynatrace’s access, use, and applicable license rights extend to Dynatrace’s affiliates, and agents/contractors performing services for Dynatrace or its affiliates and may be reassigned from one user or location to another (subject to any overall limitations on the number of users).

***On-premise Software.*** If Provider provides on-premises software to Dynatrace, any license rights granted under the Agreement worldwide, transferable to a successor to Dynatrace, and are fully paid for the fees reflected in the order document. Dynatrace may self-host on-premise software in a cloud environment at no additional cost.

***Data License.*** If Provider licenses data (or content) to Dynatrace, Dynatrace is not required to delete any of Provider’s data that Dynatrace has combined with its own data in order to enable the intended use of Provider’s data.

***Professional Services for Deliverables.*** If Provider provides professional services to develop deliverables specifically for Dynatrace (e.g., customized software development services, software integrations or deliverables based on Dynatrace’s technical specifications), Provider and Dynatrace will enter into a service order with a detailed statement of work describing the developed deliverables and assigning ownership, and (if applicable) granting a license to pre-existing material embodied in or necessary for the expected use of the deliverables. Professional services will be provided in a professional and workmanlike manner consistent with industry standards.

If the parties do not execute such a service order, the following default terms will apply to the developed deliverables: Provider assigns (and Dynatrace is, and will be, the sole and exclusive owner of) all right, title and ownership of such developed deliverables to Dynatrace, and grants a perpetual, non-exclusive, royalty-free, fully paid-up, irrevocable, worldwide, sublicensable right to distribute, perform, make, use, sell, import, reproduce, modify, transmit, display, make derivative works of and otherwise use pre-existing materials necessary for the use of the developed deliverables.

***Updates and Support.*** Provider will provide Dynatrace with access to all updates, upgrades, bug fixes, and patches that Provider makes available at no additional charge to any third party. If Provider sells premium maintenance and support services associated with the Product, Dynatrace may (at its option) purchase such services.

***Suspension.*** Provider will not suspend access to services or performance in any circumstance without first providing Dynatrace with 15 days written notice (unless otherwise agreed to by Dynatrace) and a reasonable opportunity to cure.

***Restrictions.*** Provider will not restrict or nullify Dynatrace’s license or usage rights under the Agreement or use of a Product or data in a manner that undermines the reasonably expected purpose or use of such Product.

***Limited Licenses/Subscriptions.*** If Products are licensed or provided on a limited basis (e.g., by number of user seats), Provider's sole remedy and Dynatrace’s sole liability for use of such Products over such limitations is Dynatrace’s payment of the license or usage fees attributable to the use (either at Provider's published rates or the rates negotiated by the parties, whichever is less). Dynatrace will pay no overage amounts unless explicitly provided for in the Agreement, and that are invoiced to Dynatrace within 90 days following the overage event.

***Personnel.*** **This section applies if Provider’s personnel have physical or logical access to Dynatrace systems.** If requested by Dynatrace, Provider will promptly replace any Provider personnel providing services to Dynatrace and immediately terminate said personnel’s access to Dynatrace Information. Provider will comply with, and ensure that all Provider personnel comply with, all applicable employment-related laws and regulations, and Provider will ensure that all Provider personnel have been provided workplace antidiscrimination and anti-harassment policies. If requested by Dynatrace, Provider will conduct background checks as specified by Dynatrace. Provider personnel must be subject to contractual nondisclosure obligations as set forth in the Agreement or in a separate nondisclosure agreement agreed to by the parties.

**4. Dynatrace Information.** Dynatrace owns all Dynatrace Information (as defined as any information or data provided by Dynatrace to Provider). Dynatrace hereby grants to Provider a limited, non-transferable, non-exclusive, worldwide, fully paid up, royalty-free license to, during the Agreement Term, use, reproduce, display, distribute, publish, perform, creative derivative works from, process, transmit, provide, and store the Dynatrace Information solely for the purpose of providing the Services. Provider will give Dynatrace a copy of the Dynatrace Information in its possession or control upon request and at no additional charge.

**5. Additional Warranties.** Provider represents and warrants during the term of the agreement that:

* its Products and performance of services comply with applicable laws and regulations;
* it has all rights necessary to provide its Products to Dynatrace and its Products do not infringe third-party intellectual property rights;
* updates, upgrades, bug fixes, patches, or new versions will not materially diminish the Products’ form, features, functionality, or performance;
* its Products are and will be in compliance with the specifications in the Agreement and documentation;
* its Products are not subject to any license or other terms that grant any rights to Dynatrace materials or otherwise requires them to be disclosed or distributed, licensed for the purpose of making derivative works, or redistributable at no charge;
* neither it nor the Products will introduce a computer virus, malware, ransomware, or other malicious code into Dynatrace’s computing environment;
* if it is a non-U.S. entity, Provider (i) is not subject to sanctions or otherwise designated on any list of prohibited or restricted parties and (ii) will comply with applicable import, re-import, sanctions, export and re-export control laws.

**6. Subcontractors.** Except as approved in writing by Dynatrace, Provider will not subcontract any portion of its professional services or hosted services to any third party.

**7. Term & Termination.** The term of the Agreement will not automatically renew after the Agreement’s initial term expires. For any indefinite terms and terms beyond one year, Dynatrace may terminate the Agreement for its convenience on 90 days’ notice (but no earlier than 90 days prior to the end of the first year). Dynatrace may also terminate the Agreement in the event of Provider infringement of intellectual property or performance becomes illegal or any Provider’s material breach not cured within 30 days of receiving written notice from Dynatrace. Provider may not terminate the Agreement except in the event of Dynatrace’s material breach of the Agreement not cured within 30 days of receiving written notice from Provider. Provider may not revoke or terminate any licenses granted under the Agreement except in the case of such an uncured breach, where the breach is of such a nature that Provider cannot reasonably be made whole through a monetary damages award.

**8. Confidentiality.** The parties' NDA applies to all confidential information provided under the Agreement (without regard to any earlier termination/expiration of the NDA). The NDA’s terms will control any conflicting terms in the Agreement, and the scope of the NDA covers the Agreement.

**9. Security Policy/Data Processing Obligations.** If Provider is providing hosted services or receives Dynatrace Information in relation to services performed for Dynatrace, Provider will, at no additional cost to Dynatrace, comply with minimum security requirements as provided by Dynatrace (“Provider Security Policy”), which may be provided and modified by Dynatrace from time to time. If Provider is processing or transferring personal data on behalf of Dynatrace, the Dynatrace Data Processing Agreement or Dynatrace Data Sharing Agreement (“DPA”) will be required to Provider’s processing of that personal data.

**10. Indemnification.** Provider will defend, indemnify, and hold harmless Dynatrace and its affiliates from any third-party claim arising from:

* Provider’s breach of the NDA, Provider Security Policy or DPA;
* any representation or warranty of Provider in the Agreement;
* personal injury or property damage caused by Provider; and
* Provider’s gross negligence.

Provider will give Dynatrace prompt notice of the claim and will not settle any claim without the prior written consent of Dynatrace (which will not be unreasonably withheld). Dynatrace may take part in any proceedings or settlement meetings with its own counsel at its own expense.

**11. Limitation of Liability.**

***Dynatrace’s Liability.*** Dynatrace will not be liable for any incidental or consequential damages, or lost profits, arising out of or related to the Agreement. Except for breaches of the NDA by Dynatrace or Dynatrace’s gross negligence, willful misconduct, property damage or bodily injury, Dynatrace’s maximum aggregate liability arising from the Agreement, under any theory of liability, will not exceed the fees and charges paid or payable by Dynatrace under the Agreement in the 12 months prior to the event giving rise to a claim.

***Provider’s Liability.*** Provider Terms may limit Provider’s liability, but such limits will not apply to liability or damages arising from or related to Provider’s: (i) indemnification obligations; (ii) gross negligence, willful misconduct, fraud, or violation of law; (iii) breach of the NDA or any other confidentiality obligations owed to Dynatrace; or (iv) breach of Dynatrace's Provider Security Policy or the DPA.

**12. Assignment.** Provider may not assign any portion of the Agreement without Dynatrace’s prior consent (which will not be unreasonably withheld). However, Provider may assign this Agreement in connection with a merger or similar transaction, as long as Provider gives Dynatrace (i) prior notice and (ii) in the case of assignment to a competitor of Dynatrace, the right to terminate the Agreement and any associated orders. Dynatrace may assign the Agreement, in whole or in part, without consent from or notice to Provider (i) to any of Dynatrace’s affiliates or (ii) in connection with any merger or similar transaction. Provider will not impose any obligations on Dynatrace because of a change of control of Dynatrace.

**13. Publicity.** Provider will not issue any press releases or make any disclosures regarding the Agreement, its terms, or the relationship between Provider and Dynatrace, or use Dynatrace’s trademarks or other proprietary marks, without Dynatrace’s written consent.

**14. Governing Law & Venue.** The Agreement is governed by the laws of the state of Delaware, without regard to its conflicts of law principles. The parties irrevocably submit to venue and exclusive personal jurisdiction in the state and federal courts in Delaware for any dispute arising in connection with the Agreement. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Dynatrace will not consent to injunctive relief or the entry of an order for specific performance.

**15. Other.**

* The scope of the Agreement is limited solely to Dynatrace’s purchase of, and Provider’s provision of, the Products, and no term in the Agreement that applies outside that scope will be binding on Dynatrace.
* Only the Agreement’s provisions relating to term and termination, ownership and license rights, indemnification, limitation of liability, (if Dynatrace personal data is processed) Data Processing Agreement or Data Sharing Agreement, and confidentiality will survive the Agreement’s termination.
* Notices to Dynatrace must be delivered to 1601 Trapelo Road, Suite 116, Waltham, MA 02451, Attn: General Counsel and CC via [legalnotices@dynatrace.com](mailto:legalnotices@dynatrace.com).
* Dynatrace may elect to have a third-party (e.g., a purchasing agent) purchase Products to be used on behalf of Dynatrace or an Dynatrace affiliate, and the terms of the applicable Agreement (as supplemented/modified by the Dynatrace Terms) will apply to all such purchases.
* Upon reasonable notice and without unreasonable disruption to Provider’s business, Provider will allow Dynatrace (or its designee) to review records related to Provider’s compliance with the terms of the Agreement.
* Each party is an independent contractor to the other and has no authority to act on behalf of or bind the other, and the Agreement does not create any other relationship between the parties (e.g., employment, partnership, or agency).

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| **Dynatrace LLC**  Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Legal Notice: **legalnotices@dynatrace.com**  1601 Trapelo Road, Suite 116  Waltham, MA 02451, Attn: General Counsel |  | Provider:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Legal Notice: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |