



HEWLETT PACKARD ENTERPRISE PARTNER AGREEMENT

Dear Partner,

We welcome you as an Hewlett Packard Enterprise authorized partner (or "partner"). This letter, together with the attached Hewlett Packard Enterprise Partner Base Terms and all other Addenda and Transaction Documents establishes your entire Hewlett Packard Enterprise Partner Agreement ("Agreement" or "HPE Partner Agreement").

Under the Agreement, you may access information available only to appointed HPE partners and participate, subject to HPE's authorization, in different go-to market and developmental partner programs ("Program(s)"), including HPE's Partner Ready program.

"You" and "your" mean the company that has signed this Agreement, and your Subsidiaries and Affiliates, abroad or in your country of establishment, that have adhered to this Agreement in the form prescribed by HPE. "We," "us," "our" and "HPE" means the Hewlett Packard Enterprise entity that has signed this Agreement and any other Hewlett Packard Enterprise entity that has adhered to this Agreement. The term "parties" refers to both you and us, and the term "party" may be used to refer to you or us individually.

We look forward to establishing a mutually beneficial relationship with you.

HEWLETT PACKARD ENTERPRISE PARTNER BASE TERMS

1. DEFINITIONS

- a. "*Addendum*" or "*Addenda*" means document(s) or exhibit(s) attached to or incorporated by reference into this agreement at any time that set(s) forth additional descriptions and requirements of particular partner relationships, Program offerings, or Product or Support offerings that are available to partner ("Product Exhibits") and including HPE Partner Authorization Addenda.
- b. "*Affiliate*" means any entity which is not a direct or indirect Subsidiary but in which you or your parent company own, directly or indirectly, outstanding voting securities or an ownership interest.
- c. "*Customer(s)*" or "*End User(s)*" means a person or other legal entity who has submitted or is likely to submit a formal request to purchase a Product or Service from or through partner for its own internal use only. You, your parent company, or any entity effectively controlled by your parent company cannot be a Customer under this Agreement, unless expressly permitted by the terms of the Program in which you are participating, or consent in writing has been obtained from HPE.
- d. "*HPE Authorized Partner*" means a partner that has a valid HPE Partner Agreement, meets and accepts HPE partner program requirements and/or, in case of distributors and solution providers,



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fulfills the HPE selective distribution criteria as specified on the HPE Partner Portal or in the Product Exhibits.

- e. "*HPE Branded*" means Products and Support bearing the trademark or service mark of HPE or any HPE Affiliate.
- f. "*HPE Partner Portal*" or "*Portal*" means the various website URLs listed in Program Guides or as provided by Partner's local HPE organization, located on the HPE domain, which contain links to copies of relevant Program information, documents and terms.
- g. "*Marks*" means any name, symbol, trademark, logotype, trade name, and insignia that each party owns.
- h. "*Product(s)*" means hardware, Software, Support, documentation, accessories, supplies, parts and upgrades that HPE may authorize Partner to access, use, purchase or license under the Agreement.
- i. "*Program Guide(s)*" means any guide, catalog or other document developed for a Program in which Partner participates during the life of the Agreement that includes information regarding any additional terms, authorizations, benefits or agreements that HPE has designated are available through or required for participation in the Program, the purchase of a Product or Services, or for associated Support.
- j. "*Service(s)*" means services provided by HPE or a partner in connection with or using Products or Support, including consulting services, Support services, and services for managing or augmenting the information technology functions of other companies for a fee, such as, but not limited to, outsourcing, hosting, Infrastructure-as-a-Service ("IaaS"), Platform-as-a-Service ("PaaS"), Software-as-a-Service ("SaaS"), remote network management, security monitoring, log management, patch management, remote data back-up, and application services such as load testing, quality testing, regression testing, or performance testing.
- k. "*Software*" means machine-readable instructions and data (and copies), and related updates and upgrades, licensed materials, user documentation, user manuals, and operating procedures. Software may be a separate Product or bundled.
- l. "*Subsidiary*" means any company in which the company signing this Agreement, or its parent company owns, directly or indirectly, more than 50% of the outstanding voting securities or ownership interest.
- m. "*Support*" means hardware maintenance and repair; Software updates and maintenance; training; and other standard support services provided by HPE.
- n. "*Territory*" means (a) the European Economic Area, Switzerland and the United Kingdom of Great Britain and Northern Ireland if you are registered in any country within this region; or (b) outside the EEA and Switzerland, the country where your company is registered.
- o. "*Transaction Documents*" means any document associated with an accepted order from a partner, including the order itself but excluding pre-printed terms, as well as any valid HPE quotations, HPE



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published technical data sheets or service descriptions associated with the order, or any mutually agreed upon documents that reference the Agreement or an order made under the Agreement.

2. APPOINTMENT

- a. Under the terms of this Agreement, you can, as an authorized, non-exclusive partner, access information available only to appointed HPE partners and seek HPE's authorization to participate in various go-to market and developmental partner programs ("Program(s)").
- b. The nature and scope of your authorization(s) is detailed in the Addendum or Addenda hereto that describe(s) your roles and responsibilities as an HPE Authorized Partner ("HPE Partner Authorization Addendum"). Authorizations will vary, depending on the various go-to market and developmental partner programs in which HPE authorizes your participation.
- c. You will conduct your business under the Agreement only where authorized to participate as a partner and to the extent allowed by applicable law.
- d. Local Implementation Agreement(s) (LIA(s)), substantially in the form of Exhibit A, shall be entered into by you and/or each of your qualifying Subsidiaries, on the one hand, and the relevant HPE Affiliate operating in, or sourcing Products and/or Support to, the Territory in which you and/or your Subsidiaries are located, on the other hand, to document any supplemental Territory-specific terms to the HPE Partner Agreement reflecting local laws or business practices. Upon signing a LIA, the terms of this Agreement will apply between the parties subject to any amendment set out in the LIA which will take precedence over any inconsistent terms in this Agreement, including Addenda, Programs, Product Exhibits and Program Guides relevant to the partnership.

3. STATUS CHANGE

- a. Name or Location Change. You must notify us immediately in writing if you change your name or legal form, or need to add, close or change an HPE-approved sold-to address or an HPE-authorized location.
- b. Ownership Change. In case of an ownership change, you will notify us in writing and provide the required information within five (5) days prior to the intended date of change, or on the earliest date you are legally permitted to provide such information, but not later than five (5) business days after the change has occurred. "Ownership Change" means merger, acquisition, consolidation or other reorganization that results in an entity controlling twenty percent (20%) or more of partner's capital stock or assets, or which assumes management of partner's operations or partner's acquisition of twenty percent (20%) or more of the capital stock or assets of another entity. After HPE receives all required documents to evaluate your status change or as soon as HPE believes it is in a position to decide, HPE will notify you of our consent or refusal to continue your Agreement. If HPE refuses, the Agreement will automatically terminate and HPE may, subject to mandatory applicable law,



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cancel any unfulfilled obligations. HPE does not consent to these changes prior to any Ownership Change.

4. MARKS

- a. HPE may allow you to use HPE Marks to promote the sale of HPE Products and Support or for other marketing purposes under the Agreement. The HPE Marks, the Programs and processes for securing approval to use them, and HPE's terms of use are posted on the HPE Partner Portal.
- b. We may allow you to use Hewlett Packard Enterprise Marks only to promote the sale of HPE Products and Support under this Agreement. The Hewlett Packard Enterprise Marks, the process of becoming approved to use them, and our terms of use are posted on the HPE Partner Portal.
- c. The parties agree to display each other's Marks in good taste, in a manner that preserves their value as each other's Marks, and in accordance with any standards provided by the other party for display.
- d. The parties agree not to display each other's Marks in any written or media material without prior written consent of the other party. Notwithstanding the foregoing, you authorize us to use your Marks without consent for our internal use or for listing your Marks on HPE.com or the HPE Partner Portal. You may request withdrawal of this authorization at any time with a written notice. Both parties will respond to a request to use a Mark within five working days.
- e. Use of Marks will never mean, or be implied to mean, that there is a transfer of ownership of the Marks between the parties.
- f. Any right of use either party may have regarding the other party's Marks pursuant to the Agreement will automatically end when the Agreement or the Program or other means by which authorization was obtained terminates.
- g. You will not register or use any trade, company, business or internet domain name which contains HPE's Marks in whole or in part or any other name which is confusingly similar thereto.

5. 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 the 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. You will use confidential information for the purpose of fulfilling your obligations under the Agreement and not for any other purpose. You will not publicize or disclose to any third party the contents of the Agreement without prior written consent from HPE.
- c. We are entitled to transmit confidential information we receive from you under this Agreement to our Affiliates as well as to our subcontractors and service providers subject to the above confidentiality obligations and for the purposes of this Agreement only.



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- d. 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.
- e. If personal data of either party's employees or Customer's employees is disclosed to the other party, the receiving party agrees to comply with any and all applicable data protection laws when collecting, storing, transferring, sharing, and/or otherwise processing such personal data. Unless expressly agreed otherwise, any personal data HPE discloses may only be used in accordance with the then current HPE privacy policy available on the HPE web site, and HPE privacy statement posted on the HPE Partner Portal. HPE will respect Partner's privacy and the privacy of Customers as detailed in HPE's privacy policy.

6. COMPLIANCE, RECORD-KEEPING AND AUDIT

- a. You will establish and we have the right to audit, and take copies of, complete and accurate Records for compliance with this Agreement and our programs. "Records" means your books, including electronic records and original documentation, related to acquisition, sale, maintenance and disposition of all Products and Support and any supporting documentation such as records on quantities by part number and serial number. You will maintain Records for two (2) years from the date of sale or purchase of all Products and Support.
- b. We will give you reasonable notice of an audit. You will give us and/or our auditors (internal or third party) prompt access to your Records during normal business hours. We have the right to audit your Records for two (2) years after termination of the Agreement.
- c. HPE may engage a third party to conduct an audit of your Records provided that such third party agrees to abide by the terms in section 5, Confidentiality. When you purchase Products and/or Support directly from us, you may opt for granting us any access to your Records through an independent auditor identified by us and acceptable to you. We have the right to audit your Records for two (2) years after termination of the Agreement.
- d. Each party bears its own costs associated with an HPE audit, however if the audit reveals a deviation from your obligations with this Agreement, you agree to pay all of our reasonable audit costs and fees in addition to any other amounts which may be owed.
- e. You agree that we may debit, invoice or offset you for all improper discounts and payments from HPE as determined as a result of our audit.



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7. TRADE CONTROLS

- a. If you export, re-export, or resell in country, or import Products, technology, or technical data, you assume the responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations. Partner will comply with Trade Controls requirements posted on the HPE Partner Portal. Nothing in this section should be taken as an authorization to export in violation of the terms and conditions of any specific Program.

8. CHANGES AND AMENDMENTS

- a. HPE may occasionally change its policies or Programs. When we do so, we will notify you.
- b. Any amendment that HPE issues to the Agreement will automatically become a part of the Agreement on the effective date specified in the amendment notice. If you do not agree with the amendment, you must give HPE written notice of your objection within fifteen (15) days of receipt of the notice. If you object and the parties cannot reach agreement on the amendment within thirty (30) days after our receipt of your objection, then either party may terminate the Agreement under the terms of section 9, Terms and Termination.

9. TERM AND TERMINATION

- a. The Agreement, and each LIA entered into pursuant to its terms, is effective on the date signed by HPE, or indicated in the approval notification HPE issues to you. The Agreement and LIAs will remain in effect until terminated.
- b. You may terminate this Agreement and/or individual LIAs without cause at any time upon thirty (30) days written notice which is considered given upon receipt of notice. We may terminate this Agreement and/or individual LIAs without cause at any time upon sixty (60) days written notice or any longer written notice provided by us, which is considered given upon receipt of notice. Termination of the Agreement will automatically operate as termination of all LIAs entered into hereunder.
- c. If either party becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is the subject of involuntary bankruptcy, has an administrator, receiver or receiver and manager appointed, or has its assets assigned, the other party may, subject to mandatory applicable laws, terminate this Agreement and/or the relevant LIA without notice and cancel any unfulfilled obligations. Where a LIA is terminated in application of this sub-section, the undersigned party shall have the right to terminate this Agreement along with all other LIAs entered into hereunder without notice.
- d. In the event of any material breach of the Agreement or any LIA entered into hereunder, including any Addenda and other program terms and conditions, HPE may, without limitation: (i) terminate the Agreement and/or the LIA with immediate effect or as otherwise notified by HPE; (ii) require you to refund or forfeit any discounts or program payments paid and/or accrued during the scope of the breach period; (iii) and/or require you to reimburse HPE for all reasonable outside counsel fees associated with enforcing these provisions. Additionally, each time you breach the terms stated in the Agreement, a LIA or program terms and conditions, you will indemnify us against, and HPE may



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invoice you, and you agree to pay, for all liabilities, losses, costs and damages associated with the breach.

- e. If either party gives notice of termination, HPE may require you to pay cash in advance for additional deliveries from us during the remaining term, regardless of your previous credit status. HPE may also withhold all such deliveries until you pay any outstanding balance.
- f. Obligations under the Agreement and/or a LIA concerning outstanding purchase orders, invoices, marketing funds or promotional allowances, payments, statements of work, warranties, Support, Software licensing, intellectual property protection, limitations of liability and remedies, audit, and confidentiality, will survive termination of this Agreement.
- g. Upon termination, all rights to any accrued HPE promotional allowance funds and HPE promotional services will automatically expire.
- h. By executing the Agreement, both parties acknowledge that they have reviewed and voluntarily accepted above termination terms.

10. GENERAL

- a. Assignment. You may not assign or transfer any rights or obligations hereunder without our prior written consent. HPE may assign any rights or obligations hereunder to another HPE Affiliate at any time without notice.
- b. Waiver. No failure or delay by either party to exercise any of its rights under the Agreement will constitute or be deemed a waiver or forfeiture of those rights.
- c. Code of Conduct. HPE agrees and expects all partners to agree to conduct business in strict legal compliance and with the highest ethical standards. By entering into the Agreement, Partner agrees to comply with HPE's Partner Code of Conduct, as updated from time to time, and located on the HPE Partner Portal. Additionally, Partner acknowledges that there are specific legal and ethical requirements for doing business with public sector entities and Partner is solely responsible for its compliance with these requirements. Specifically, Partner agrees (without limitation): (1) not to seek or accept any compensation in connection with the Agreement which may violate any applicable laws, regulations, contracts, or conflict of interest policies; (2) not to use bribes, kickbacks, illegal gratuities, or other corrupt practices in connection with the Agreement; and (3) not to provide HPE with any proprietary, source selection sensitive, or other information that is restricted from disclosure by a third party. A breach of HPE's Partner Code of Conduct may be deemed a material breach of the Agreement. Without limiting HPE's rights under section 8, if Partner breaches HPE's Partner Code of Conduct, HPE may exclude Partner from HPE's Programs, including special pricing and/or promotion programs and, if Partner is eligible to purchase Products directly from HPE, HPE may alter the level of discount available for such purchases.
- d. Electronic Transactions. If the parties agree to do business electronically:
 - 1. The parties will not legally contest the validity or enforceability of electronic transactions.
 - 2. Electronic transactions will be admissible if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceeding to the same extent and under the same conditions as if they were hard copy signed documents.



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3. Each party will use commercially reasonable security measures to limit access to passwords and to limit access to the sites used to process electronic transactions, to authorized persons. Each party will be responsible for any unauthorized use of the sites or issuance of messages caused by the failure of its security measures.
- e. Enforceability. If any term or condition of the Agreement is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of the Agreement will remain in full force and effect.
- f. Entire Agreement. The Agreement is the entire agreement between the parties regarding its subject matter and supersedes all prior representations, discussions, negotiations, agreements, or your additional or inconsistent terms, whether written or oral. Additional or inconsistent terms on any purchase order or other document from partner will not apply to transactions. No modification of the Agreement or this provision will be binding on either party unless made in compliance with section 8, Changes and Amendments.
- g. Force Majeure. Neither party will be liable for performance delays or for non-performance due to causes beyond its reasonable control. However, this provision will not apply to any payment obligations.
- h. Governing Law. Disputes arising in connection with the Agreement will be governed by the laws of Switzerland and the courts of Geneva will have jurisdiction, except that HPE may, at its option, bring suit for collection in the country where you are located.
- i. Independent Contractors. Both parties are independent contractors in the performance of the Agreement. The Agreement does not establish a franchise, joint venture or partnership, or create any relationship of employer and employee, or principal and agent between the parties.
- j. Notices. All notices must be in writing, and considered given as of twenty-four (24) hours after sending by electronic means, overnight courier, hand delivery, or as of five (5) days of certified mailing. Delivery and receipt of notices are calculated based upon business days, excluding Saturday, Sunday, and public holidays.
- k. Order of Precedence. In the event of a conflict, the following order of precedence will apply: Transaction Documents, Addenda, HPE Partner Base Terms.
- l. UN Convention. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement or to transactions processed under the Agreement.



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HEWLETT PACKARD ENTERPRISE SOLUTION PROVIDER AUTHORIZATION ADDENDUM

This HPE Partner Authorization Addendum defines the nature and scope of the relationship between you and HPE, including your roles and responsibilities as a Solution Provider.

1. STATUS OF THE ADDENDUM

- a. This Addendum constitutes an Addendum to your HPE Partner Agreement.
- b. The Addendum together with any applicable Program Guides, Program Terms and Conditions, or Transaction Documents governs: (i) the nature and scope of the partner's authorization and roles and responsibilities as a HPE non-exclusive solution provider ("**Solution Provider**"); and (ii) the terms on which the partner as a Solution Provider may purchase Products and Support indirectly from a HPE Authorized Partner for resale in the Territory.
- c. Further Addenda that may apply to Solution Providers as per their respective terms and as updated from time to time, include but are not limited to the HPE Partner Code of Conduct, the HPE Partner End-User Special Negotiated Discount Program Terms and Conditions, the HPE Partner Ready Program Terms and Conditions, the HPE Market Development Funds Program Terms and Conditions, the HPE Partner Promotion Program Terms and HPE Partner Compensation Program Terms. These are posted on the HPE Partner Portal or otherwise communicated by HPE to the relevant category of Solution Providers.
- d. The terms of this Addendum in no way limit or alter partner's rights and obligations under the remainder of the HPE Partner Agreement (including under other addenda or applicable Transaction Documents), except that in the event of any conflict between the terms of this Addendum and the HPE Partner Agreement, the terms of this Addendum take precedence with respect to any subject matter of the Addendum.
- e. Capitalized terms not otherwise defined in this Addendum are defined in the HPE Partner Base Terms.

2. AUTHORIZATION

- a. HPE authorizes you to purchase indirectly from HPE Authorized Partners only, to resell, and when authorized by HPE to sub-license, in the Territory HPE Products and/or Support as indicated on the HPE Partner Portal or otherwise communicated by HPE to you.
- b. Your authorization is subject to Solution Provider fulfilling HPE's selective distribution criteria published on the HPE Partner Portal, including product-specific requirements for specific Products, at all times.

3. SOLUTION PROVIDER BENEFITS

For purchases and resale of Products and Support pursuant to the terms of this Addendum, HPE may grant compensation and/or other partner program benefits. Compensation and partner program benefits are for the category of Solution Providers and as per the requirements indicated in the Partner Ready Program Guide, applicable Program Terms and Conditions, and relevant Transaction Documents.

4. RESTRICTIONS



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- a. Solution Provider will not :
 - (i) purchase Products for other purposes than for resale;
 - (ii) purchase Products or Support for internal use (unless HPE has otherwise provided prior written approval);
 - (iii) resell Products or Support to any of its divisions or Affiliates (unless HPE has otherwise provided prior written approval);
 - (iv) purchase Products or Support from any unauthorized sources; or
 - (v) resell Products or Support to non-HPE Authorized Partners. In the event you resell Products, or Support to other resellers, you may resell Products and Support to resellers who are HPE Authorized Partners in the Territory.
- b. Solution Provider will conduct its business under this Addendum only in the Territory and, to the extent permitted by applicable law, importation into or exportation out of the Territory of Products is prohibited unless prior written approval is provided by HPE.
- c. Solution Provider shall not directly or indirectly resell Products or Support within the Territory if: (i) the Products or Support have not been acquired directly from HPE or from a HPE Authorized Partner; or (ii) Solution Provider knows, or has reason to believe, that the purchaser (or any third party) will export or import Products for resale to/into a country outside of the Territory. Non-compliance with this section will be considered as a material breach for the purposes of section 9.d. of the HPE Partner Base Terms.

5. BASE WARRANTY

- a. Warranty Terms. Product warranty terms, conditions, exceptions, exclusions and disclaimers are contained within the Product packaging, with HPE quotes, on indicated web pages or HPE Partner Portal, or upon request.
- b. Pass Through Processes. HPE warranty passes through to Customers. You may provide more extensive warranty coverage for Customers, as long as we have no responsibility for fulfilling the additional obligations. If you provide more extensive warranty coverage, you will identify it as non-HPE warranty.
- c. Pass Through Warranty Periods. If the Products you ordered from us are temporarily retained in your inventory, they are warranted to you beginning on the shipment date from us and ending with shipment to Customer, for a period not to exceed ninety (90) days from date of your original purchase from us. Customer warranties begin upon Product purchase by the Customer and must be verified by proof of acquisition by Customer.

6. PRODUCT MODIFICATION

- m. HPE reserves the right to make changes in the design or specifications of Products.
- n. Solution Provider is not authorized to modify Products. HPE is not liable for any issue arising from such unauthorized modifications, or for any commitment(s) the Solution Provider makes with respect to special interfacing, compatibility or suitability of Product(s) and Support for specific applications.
- o. If HPE issues a Product safety notification or operational correction, Solution Provider will notify End Users who purchased the impacted Product(s). Such notification may include providing reports for them, listing resources for information, advertising in various publications, etc. The notification will



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be in writing and sent to them within five (5) days of receipt of notice from HPE unless otherwise agreed by both parties.

7. SOFTWARE DISTRIBUTION

- p. You are entitled to distribute Software to Customers and HPE Authorized Partners, as authorized by this Addendum, for resale or internal use, respectively.
- q. Pass Through Process. You shall provide your Customers or other HPE Authorized Partners with the relevant Supporting Materials, such as but not limited to (i) product-specific Additional Licensing Authorizations (ALAs), (ii) Support data sheets, (iii) SaaS Service Descriptions, (iv) HPE Data Protection Regulations, (v) EULA etc. Supporting Materials are contained within the Product packaging, with HPE quotes, on indicated web pages or the HPE Partner Portal, or available upon request. Supporting Materials contain HPE's obligations towards the Customer with regard to any transaction with you under this Agreement. You may provide more extensive representations and commitments to Customers, as long as we have no responsibility for fulfilling such additional obligations. HPE is not responsible for your acts or omissions, for any obligations undertaken by you or representations that you may make, or for any other products or services that you supply to other HPE Authorized Partners and/or Customers.

8. MICROSOFT LICENCE GRANT LIMITATION

- r. Solution Provider hereby agrees to the following terms if it distributes HPE computer systems that are pre-installed, bundled, or otherwise distributed with a Microsoft ("MS") operating system or with MS application Software ("HPE Computer Systems"). Solution Provider will:
 - (i) deliver to the End User, as applicable, the Microsoft Certificate of Authenticity ("COA") and Associated Product Materials ("APM") together with each HPE Computer System, in HPE's packaging, and will not quote a separate price for the MS operating system, the MS application Software or both. "APM" means material associated with the MS operating system Software or application Software, or both, that accompany the HPE Computer System in HPE's packaging, including without limitation, the Customer manual, recovery media, and external media;
 - (ii) provide reasonable assistance to HPE in any investigation of an incident where the Solution Provider or any party within Solution Provider's distribution channels delivers the COA and APM separate from HPE Computer Systems purchased from HPE or quotes a separate price for the MS operating system, the MS application Software, or both on such HPE Computer Systems;
 - (iii) take all commercially reasonable steps to follow notices of any kind provided by Microsoft, or by HPE to Solution Provider, regarding any Microsoft Software distributed with HPE Computer Systems; and
 - (iv) indemnify HPE from all costs, including reasonable attorneys' fees, relating to claims by Microsoft relating to the unauthorized distribution of Microsoft products.
- s. If Microsoft notifies HPE that HPE must discontinue distribution of the HPE Computer Systems to the Solution Provider, HPE will do so promptly following receipt of such notice. Under no circumstances will HPE's failure to deliver HPE Computer Systems to the Solution Provider, following receipt of such notice, constitute a breach of this Addendum.

9. INDEMNIFICATION AND LIMITATION OF LIABILITY



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- a. Except for claims for damages for bodily injury or death and for any other claim which cannot be excluded by local law, HPE's maximum liability under this Addendum is US\$1,000,000 per incident. Notwithstanding the foregoing, in no event is HPE liable to you for any and all damages (whether direct or indirect) from business interruption, loss of data, loss of profits or revenue, cost of capital, or loss of use of any property or capital, nor for any (other) special, indirect, incidental, statutory, punitive or consequential damages.

To the extent allowed by local law, these limitations apply regardless of the basis of liability, including negligence, misrepresentation, breach of any kind, or any other claims in contract, tort or otherwise.

- b. You are solely responsible for your acts, omissions, obligations, representations, or misrepresentations in providing your services to Customers. You agree to defend, indemnify and hold us harmless against all claims, lawsuits, liabilities, losses, damages, costs and expenses (including reasonable attorney and expert witness fees), as a result of any claims by Customers, arising out of or in connection with your acts, omissions, obligations, representations, or misrepresentations in connection with your provision of services or services offerings; or reselling of HPE Products and Support to Customers.

10. INTELLECTUAL PROPERTY INDEMNIFICATION

- a. We will defend or settle any claim against you (or Customers and third parties to whom we authorize you to resell or sublicense Products), that HPE branded Products or Support (excluding custom Products and custom Support, but including any pre-written statements of work regarding Support), delivered under this Addendum, that alone, and not in combination with any other product, infringe any third party patent, copyright, trade secret, mask work or trademark in the country where Products are used, sold or receive Support, provided you:
 - 1. promptly notify us in writing;
 - 2. have sold Products, or sold or performed Support in complete compliance with the HPE Partner Agreement; and
 - 3. cooperate with us in, and grant us sole control of the defense or settlement.
- b. We will pay defense costs, including reasonable attorney's fees, HPE negotiated settlement amounts and court-awarded damages. If such a claim occurs or appears likely to occur, we may modify the Product, procure any necessary license, or replace it. If we determine that none of these alternatives is reasonably available, we will refund your purchase price upon return of the Product if within one (1) year of delivery, or the Product's value thereafter. For Support, the refund will be the lesser of twelve (12) months charges for the claimed infringing Support or the amount paid by Customer for that Support.
- c. We have no obligation for any claim of infringement arising from:
 - 1. our compliance with designs, specifications or instructions; provided by you, Customer or any other third party;
 - 2. our use of technical information or technology; provided by you, Customer or any other third party;
 - 3. modification of the Products by you, Customer or any other third party;
 - 4. use of Products prohibited by HPE's published specifications or related application notes; or,
 - 5. use of Products with products that are not HPE branded Products.
- d. To the extent permitted by law, these terms state our entire liability for claims of intellectual property infringement.



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11. TERM AND TERMINATION

- a. This Addendum will become effective on the effective date indicated in the approval notification or as indicated on the signature page of your HPE Partner Agreement, whichever occurs first.
- b. This Addendum will remain in effect until the expiration or termination of the HPE Partner Agreement, unless earlier terminated in accordance with section 9 Term and Termination, of the HPE Partner Base Terms which shall apply to this Addendum.
- c. Upon termination or expiration of your HPE Partner Agreement or this Addendum for any reason, you will immediately cease any activity permitted under this Addendum.
- d. The termination of this Addendum will not affect payments due or fulfillment and payment of orders accepted and procurement commitments made prior to termination. Any terms in the Addendum which by their nature extend beyond termination or expiration of the Addendum will remain in effect until fulfilled and will apply to both Parties' respective successors and permitted assigns.



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HEWLETT PACKARD ENTERPRISE PARTNER INTERNAL PURPOSES PROGRAM ADDENDUM

The Hewlett Packard Enterprise Partner Internal Purposes Program Addendum, including Exhibit A (“Addendum”), governs the relationship of the parties with respect to any and all purchases of Products for internal use (the “Program”) in conjunction with and as an addendum to the Hewlett Packard Enterprise Partner Agreement. In the event of any conflict between this Addendum and the HEWLETT PACKARD ENTERPRISE Partner Agreement, this Addendum will govern any subject matter of this Program, in accordance with the relevant section of the HEWLETT PACKARD ENTERPRISE Partner Agreement. Capitalized terms not otherwise defined in this Addendum are defined in the HEWLETT PACKARD ENTERPRISE Partner Agreement.

You acknowledge and agree that your participation in the Program constitutes acceptance of, and is subject to, the terms of this Addendum.

Section 1 - Authorization

Under the Program, we authorize you to purchase Products for your own internal use. If you have a direct purchasing arrangement with us then you may purchase Products directly from us, otherwise we authorize you to purchase Products from an HPE authorized Partner (“Partner”).

Section 2 - Requirements

Prior to purchasing Products, you must have obtained any and all certifications and training required by us to purchase the Products, as if you were purchasing those Products for reselling purposes. You will purchase the Products under the terms of the Program and in accordance with the terms of the HEWLETT PACKARD ENTERPRISE Partner Agreement, for internal use. If you do not use these Products for such purpose, then this Program and this Addendum will automatically terminate and we shall not be required to give any termination notice to you. You undertake to immediately and without undue delay inform us of any material change in your use of the Products

Section 3 – Restrictions

- A. You will not resell the Products purchased under the Program within two (2) years from the date that you purchased the Products. Products you sell after the two-year period must be sold (and clearly specified) as used or refurbished and will be subject to any applicable section of the HEWLETT PACKARD ENTERPRISE Partner Agreement that pertains to the selling of refurbished Products.
- B. Products purchased under the Program may not be returned through a Partner using your returns cap or allowance.
- C. You may return Products to us that were purchased under this Addendum using your local Customer Care returns process only.
- D. You may purchase Products on behalf of your Affiliates, provided that when you transfer the Products to your Affiliates, you ensure that your Affiliates comply with the terms and restrictions specified in this Addendum including this Section 3.
- E. You will not purchase Products for your (or your Affiliates’) internal employee purchase program.

Section 4 – HPE Benefits

- A. You may not claim any rebates based on your participation on a Special Pricing quote under the Program, unless the Program approved by the HPE Country’s Business Unit confirms you can place the claim.
- B. If you claim a benefit other than an End-User Special Negotiated Discount benefit, then we may terminate this Addendum and you will not receive any compensation from us.
- C. Special Pricing will not be approved for the resale of Products purchased under this Program.

Section 5 - Base Warranty

- A. **Warranty Statements.** Our limited warranty statements for hardware, Software, and Support, as



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applicable, are contained in Exhibit A to this Addendum. The limited warranties in this Addendum 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 may 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 our license transfer policies and any assignment restrictions.
- C. **Delivery Date.** Warranties begin on the date of delivery, or on the date of installation if installed by us. If you schedule or delay such installation by us more than thirty (30) days after delivery, your warranty period will begin on the 31st day after delivery.
- D. **Exclusions.** We are 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 our site specifications;
 - 2. your non-compliance with specifications or Transaction Documents;
 - 3. improper or inadequate maintenance or calibration;
 - 4. your or third-party's media, software, interfacing, supplies, or other products;
 - 5. modifications not performed or authorized by us;
 - 6. virus, infection, worm or similar malicious code not introduced by us;
 - 7. abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by you, or other causes beyond our control, or
 - 8. any other unauthorized use of the Products, including any claims made by your Customers.
- E. **Non-HPE Branded Products and Services.** We provide third-party products, software, and services that are not HPE Branded "AS IS" without warranties of any kind, although the original manufacturers or third party suppliers of such products, software and services may provide their own warranties.
- F. **Disclaimer.** TO THE EXTENT ALLOWED BY THE LAW APPLICABLE TO THE Hewlett Packard Enterprise PARTNER AGREEMENT, THE WARRANTIES AND ANY ASSOCIATED REMEDIES EXPRESSED OR REFERENCED IN THIS ADDENDUM ARE EXCLUSIVE, NO OTHER WARRANTY, GUARANTEE OR CONDITION, WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED BY HPE OR MAY BE INFERRED FROM A COURSE OF DEALING OR USAGE OF TRADE AND HPE DISCLAIMS ALL IMPLIED WARRANTIES, GUARANTEES AND CONDITIONS INCLUDING ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

Section 6 - Audit and Reporting

- A. In addition to our audit rights and your obligations set forth in the Compliance, Record-keeping and Audit section of the Hewlett Packard Enterprise Partner Agreement, you will keep records of the Product names, model numbers, serial numbers, and the location where the Products are installed. On our first demand, you shall immediately provide to us any appropriate documentation necessary, proof that you did not transfer title to the Products or the license or other right to use Software. Upon our reasonable request, you will provide us a report listing the foregoing information and any other information regarding the Products purchased under this Addendum for the period requested. Our right to audit your Records pertaining to your purchases made under this Addendum and our right to verify your compliance with this Addendum will include the period beginning four (4) years prior to the audit date.
- B. All sales you report to us under the Program will indicate "Partner Internal Purposes Program" or "PIPP" as the sell-to customer and your address as the ship-to address. Any sales made outside the scope of the Program will be considered a violation of the terms and conditions of this Addendum



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and may result in the termination of this Addendum and/or the HEWLETT PACKARD ENTERPRISE Partner Agreement in addition to other remedies available to HEWLETT PACKARD ENTERPRISE.

Section 7 - Term and Termination

- A. This Addendum will begin on the effective date indicated within the approval notification we issue to you or as indicated on the signature page, as the case may be. This Addendum will remain in effect until the expiration or termination of the HEWLETT PACKARD ENTERPRISE Partner Agreement, unless terminated without cause upon thirty (30) days prior written notice by either party.
- B. Upon termination or expiration of the HEWLETT PACKARD ENTERPRISE Partner Agreement or this Addendum for any reason, you will immediately cease any activity permitted under the Program.



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EXHIBIT A

Hardware Warranty

A. RISK OF LOSS

If you purchase any of the hardware Products directly from us, risk of loss or damage to hardware, will pass to you and acceptance will occur upon delivery to your “ship to” address or, if special shipping arrangements are agreed to, upon delivery to your carrier or designee. Title to hardware Products will pass from HPE to you upon full payment for or delivery of the Products, whichever is later. You agree to properly insure the Products for the benefit of HPE between the time risk of loss and damage pass and the time title passes.

B. INSTALLATION

If we provide installation services, you will make available facilities that meet our published site guidelines that will be provided to you upon request. Upon delivery, you will place each item of hardware in your designated location. Installation is billed at our published installation charges unless quoted as part of the hardware purchase price. Installation by us is complete when the hardware passes our standard installation and test procedures.

C. TRADE-IN PROGRAMS

You have the responsibility for risk of loss for trade-in hardware until receipt by us. Such items must be returned to us as soon as reasonably practicable at your expense free of all liens, claims, or encumbrances, or you will repay us the applicable trade-in credit.

D. HARDWARE LIMITED WARRANTY

We warrant HPE 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.

E. OPERATION

We do not warrant that the operation of hardware will be uninterrupted or error free, or that the hardware will operate in hardware and Software combinations other than as expressly required by us in the Product specifications or that hardware will meet requirements specified by you. You may only use firmware embedded in the hardware to enable the hardware to function in accordance with its specifications.

F. EXCLUSIVE REMEDIES

Upon notice of a valid warranty claim during the warranty period and if provided reasonable access to the HPE Branded hardware, we will, at our option, repair a defect in the HPE Branded hardware, or correct a material non-conformance to specifications, or replace such hardware with hardware of equal or better functional performance. If we are unable, within a reasonable time, to complete the repair or correction, or replace such HPE Branded hardware, you will be entitled to a refund of the purchase price paid upon prompt return of such hardware to us. Subject to the terms in your specific Product warranty statement you will pay expenses for return of such hardware to us. We will pay expenses for shipment of repaired or replacement hardware to you. To the extent allowed by the law applicable to the HEWLETT PACKARD ENTERPRISE Partner Agreement, this sub-section states HPE's entire liability for hardware warranty claims.

Software

A. License Grant

We grant you a non-exclusive, non-transferable license to “Use”, in object code form, of the Version or Release of the HPE Branded Software delivered based on an HPE accepted order. For purposes of this Addendum, unless otherwise specified in the Transaction Documents, “Use” means to install, store, load, execute, and display one copy of the Software on one device at a time for your internal use. Your Use of such Software is subject to these license terms and the Use restrictions and



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authorizations for the Software specified by us in Transaction Documents that accompany or are otherwise made available to you with the Software (the “Software License”). In the event of any conflict among such terms, the order of precedence will be the accompanying Transaction Documents and then the terms of this section. “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 us to Customers (also called a “Release”).

B. Third-party Software

For non-HPE Branded Software, the third party supplier’s license terms and use restrictions found in the Transaction Documents that may accompany that Software will solely govern its Use.

C. 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 this Addendum and independently may protect their rights in the Software in the event of any infringement. All rights not expressly granted to you are reserved solely to us or our suppliers.

D. Acceptance

Software is deemed accepted by you upon delivery.

E. Upgrades

Software Versions or maintenance updates, if available, may be ordered separately or may be available through Software support. We reserve 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 you obtain a license for a new Software Version, your Software License for the earlier Version will terminate. Software Versions are subject to the license terms in effect on the date that we deliver or make the Version available to you.

F. License Restrictions

1. Use Restrictions. You may not exceed the number of licenses, agents, tiers, nodes, seats, or other Use restrictions or authorizations agreed to and paid for by you. Some Software may require license keys or contain other technical protection measures. You acknowledge that we may monitor your compliance with Use restrictions and authorizations remotely, or otherwise. If we make a license management program available which records and reports license usage information, you agree 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 you and continuing for the period that the Software is used.
2. Copy and Adaptation. Unless otherwise permitted by us, you 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 you make a copy for backup purposes and install such copy on a backup device, unless otherwise provided in the Transaction Documents, you 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. You 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 your intranet require restricted access by authorized users only.
3. Copyright Notice. You 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.
4. 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



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on a computer system owned, controlled, or operated by or solely on your behalf and may be further identified by us 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 your possession or control.

5. OS Software. Operating system Software may only be used when operating the associated hardware in configurations as approved, sold, or subsequently upgraded by us.
6. Changes. You will not modify, reverse engineer, disassemble, decrypt, decompile, or make derivative works of the Software. Where you have other rights mandated under statute, you will provide us with reasonably detailed information regarding any intended modifications, reverse engineering, disassembly, decryption, or decompilation and the purposes therefore.
7. Use for Service Provision. Extending the Use of Software to other persons or entities as a function of your providing services, (i.e.; making the Software available through a commercial timesharing or service bureau) must be authorized in writing by us prior to such use and may require additional licenses and fees and is generally not permitted under this PIPP Addendum.

G. License Term and Termination

Unless otherwise specified in a Transaction Document, the Software license granted to you will be valid for the duration of the legal protection of the intellectual property rights concerned, provided however that we may terminate the Software License upon notice for failure to comply with this Addendum. Immediately upon termination of the Software License or upon expiration of any individual limited term license, you will destroy the Software and all copies of the Software subject to the termination or expiration or return them to us. You will remove and destroy or return to us any copies of the Software that are merged into adaptations, except for individual pieces of data in your database. You may retain one copy of the Software subsequent to termination for archival purposes only. At our request, you will certify in writing to us that you have complied with these requirements.

H. License Transfer

You may not sublicense, assign, rent, or lease the Software or the Software License to any other party except as permitted under this Program and subject to the terms and conditions of this Addendum, including provisions in this section. Except as provided in sub-section F.4 above, HPE Branded Software Licenses are transferable subject to our prior written authorization and payment to us of any applicable fees or compliance with applicable third party terms. Upon transfer of the Software License your rights under the license will terminate and you 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. You may transfer firmware only upon transfer of the associated hardware.

I. Warranty Period

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

J. Virus Warranty

We warrant that any physical media containing HPE Branded Software will be shipped free of viruses.

K. Warranty Limitation

We do 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 us in the Product specifications or that Software will meet your requirements.

L. Exclusive Remedies



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If notified of a valid warranty claim during the warranty period, we will, at our option, correct the warranty defect for HPE Branded Software, or replace such Software. If we are unable, within a reasonable time, to complete the correction, or replace such Software, you will be entitled to a refund of the purchase price paid upon prompt return of such Software to us. You will pay expenses for return of such Software to us. We will pay expenses for shipment of repaired or replacement Software to you. To the extent allowed by the law applicable to the HEWLETT PACKARD ENTERPRISE Partner Agreement, this paragraph states our entire liability for warranty claims.

Support

A. SUPPORT SERVICES

1. Description of Support. HPE will deliver Support according to the description of the offering, eligibility requirements, service limitations, and Customer responsibilities described in the relevant Transaction Documents.
2. Cancellation. Customer may cancel Support orders or delete Products from Support upon sixty (60) days written notice, unless otherwise stated in a Transaction Document. 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 stated in a Transaction Document. If Customer cancels prepaid Support, HPE 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.
3. Return to Support. If Customer allows Support to lapse, HPE 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.
4. Local Availability. Customer may order Support from HPE'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 HPE coverage areas may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.
5. Relocation. Relocation of any Products under Support is the responsibility of Customer and is subject to local availability as detailed in sub-section A.4, and may result in changes to Support fees. Reasonable advance notice to HPE 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.
6. Multi-vendor Support. HPE provides Support for certain non-HPE Branded Products. The relevant Transaction Document will specify availability and coverage levels, and governs delivery of multi-vendor Support, 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 such Products.
7. Service Providers. HPE reserves the right and Customer agrees to HPE's use of HPE-authorized service providers to assist in the delivery of Support.
8. Modifications. Customer 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.
9. Support Warranty. HPE warrants that it will perform Support using generally recognized commercial practices and standards.



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10. Exclusive Remedies. HPE will re-perform Support not performed in accordance with the warranty herein. This sub-section states HPE's entire liability for Support warranty claims.

B. PRICING, INVOICING AND ADDITIONAL SERVICES

1. Pricing. Except for prepaid Support or as otherwise stated in a Transaction Document, HPE may change Support prices upon sixty (60) days written notice.
2. Additional Services. Additional services performed by HPE 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.
3. Invoicing. Invoices for Support will be issued in advance of the Support period. HPE Support invoices and related documentation will be produced in accordance with HPE system standards. Additional levels of detail requested by Customer may be chargeable.

C. SITE AND PRODUCT ACCESS

Customer shall 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 Products; and other access requirements described in the relevant Transaction Document. If Customer fails to provide such access, resulting in HPE's inability to provide Support, HPE shall be entitled to charge Customer for the Support call at HPE's published service rates. Customer is 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 Customer for the extra work at HPE's published service rates.

D. HARDWARE PRODUCT SUPPORT

1. 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.
2. Eligibility. For initial and on-going Support eligibility Customer must maintain all Hardware Products at the latest HPE-specified configuration and revision levels and in HPE's reasonable opinion, in good operating condition.
3. Loaner Units. HPE maintains title and Customer 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.
4. 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.
5. 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.
6. Support for Accessories. HPE 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.
7. 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.



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8. 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 Customer pays any applicable charges.

E. SOFTWARE PRODUCT SUPPORT

1. Eligibility. Customer may purchase available Software Support for HPE Branded Software only if Customer can provide evidence it has rightfully acquired an appropriate HPE license for such Software. HPE will be under no obligation to provide Support due to any alterations or modifications to the Software not authorized by HPE or for Software for which Customer cannot provide a sufficient proof of a valid license. Unless otherwise agreed by HPE, HPE only provides Support for the current Version and the immediately preceding Version of HPE Branded Software, and then only when HPE Branded Software is used with hardware or software included in HPE-specified configurations at the specified Version level.
2. 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 HPE trademark and copyright notices.

F. USE OF PROPRIETARY SERVICE TOOLS FOR SUPPORT

HPE 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 HPE, 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 HPE. 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 HPE to remove these Proprietary Service Tools. Customer will also be required to:

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

G. CUSTOMER RESPONSIBILITIES

1. 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.
2. Temporary Workarounds. a. Customer will implement temporary procedures or workarounds provided by HPE while HPE works on permanent solutions.
3. Hazardous Environment. Customer will notify HPE if Customer uses Products in an environment that poses a potential health or safety hazard to HPE employees or subcontractors.



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HPE may require Customer to maintain such Products under HPE supervision and may postpone service until Customer remedies such hazards.

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

H. ACCESS TO HPE SOLUTION CENTER AND IT RESOURCE CENTER

1. Designated Callers. Customer 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").
2. 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 Customer 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, 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 HPE when Support is initiated. HPE Solution Centers may provide support in English or local language(s), or both.
3. HPE IT Resource Center. HPE IT Resource Center is available via the worldwide web for certain types of Support. Customer may access specified areas of the HPE IT Resource Center. File Transfer Protocol access is required for some electronic services. Customer employees who submit HPE Solution Center service requests via the HPE IT Resource Center must meet the qualifications set forth in sub-section H.2 above.
4. Telecommunication Charges. a. Customer will pay its own telecommunication charges associated with using HPE IT Resource Center, installing and maintaining ISDN links and Internet connections (or HPE-approved alternatives) to the HPE Solution Center, or using the Proprietary Service Tools.



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HEWLETT PACKARD ENTERPRISE PARTNER END-USER SPECIAL NEGOTIATED DISCOUNT PROGRAM TERMS

The Hewlett Packard Enterprise Partner End-User Special Negotiated Discount Program Terms (“Terms”) define the Hewlett Packard Enterprise Partner End-User Special Negotiated Discount Program (“Program”) business process and the terms and conditions in conjunction with the Hewlett Packard Enterprise Partner Agreement. To qualify for this Program, you must have a signed Hewlett Packard Enterprise Partner Agreement. In the event of any conflict between these Terms and the Hewlett Packard Enterprise Partner Agreement, these Terms will govern any subject matter of this Program. Capitalized terms not otherwise defined in these Terms are defined in the Hewlett Packard Enterprise Partner Agreement.

1. DEFINITIONS

- a. *“Back End End-User Validation”* is an HPE process used to verify that the Products and/or Support which are the subject of the End-User Special Negotiated Discount opportunity are ultimately sold only to the specified End-User and were delivered to the End-User named in the End-User Special Negotiated Discount Quotation or Won Deal.
- b. *“End-User”* means the company or party named on the End-User Special Negotiated Discount Quotation and Won Deal which is the purchaser of HPE Products and/or Support for the purposes of use and/or consumption within their own internal operation (“Internal Use”) within the Territory and not for resale or re-supply to other party/ies.
- c. *“End-User Shipment Date”* is the date on which T1 Partners ship to either T2 Partners or End-Users.
- d. *“HPE Partner Data Acquisition & Reporting (“PDAR”)”* is a program requiring Partners to submit actual data covering HPE Products and/or Support purchases, sales and inventory to HPE.
- e. *“Hewlett Packard Enterprise Partner End-User Special Negotiated Discount Program”* is designed to help HPE and Partners selling HPE Products and/or Support to win specific End-User large volume and/or high value deals by providing additional discount in excess of the Hewlett Packard Enterprise Partner Agreement Discount.
- f. *“Partner”* is either a “T1 Partner” or “T2 Partner”.
- g. Pricing and Discount Terminologies:
 1. *“Additional % Off HPE List Price”* is the additional discount percentage off of the HPE list price in excess of the Hewlett Packard Enterprise Partner Agreement Discount.
 2. *“Big Deal Net (BDnet) Price”* is the HPE list price less the HEWLETT PACKARD ENTERPRISE Partner Agreement Discount and less the End-User Special Negotiated Discount discount.
 3. *“HEWLETT PACKARD ENTERPRISE Partner Agreement Discount”* is the contractual discount granted under the HEWLETT PACKARD ENTERPRISE Partner Agreement.
 4. *“Rebate”* is the End-User Special Negotiated Discount discount amount that is paid from HPE to Partner.
 5. *“Rebate Claim”* is the process for Partners to request payment of the End-User Special Negotiated Discount discount amount by submitting a claim with required information as detailed in the local Hewlett Packard Enterprise Partner Operating Procedure Manual.
 6. *“End-User Special Negotiated Discount”* is the additional discount beyond the HEWLETT PACKARD ENTERPRISE Partner Agreement Discount for a specific End-User deal. End-User Special Negotiated Discount is offered as “Big Deal Net Price” or “Additional % Off HPE List Price”.
 7. *“Upfront Discount”* is the End-User Special Negotiated Discount discount provided to Partner at order placement to HPE.
- h. *“Sell”* (and its other grammatical forms) includes without limitation, supply by way of exchange, lease, hire, hire-purchase, loan, license or through an outsourcing, data processing, facilities management or other services relationship.
- i. *“End-User Special Negotiated Discount Quotation”* is an offer by HPE to the Partner specifying Products and/or Support, prices, quantities, ordering schedule and expiration date for a designated End-User, and cannot be ordered and claimed against.
- j. *“T1 Partner” or “Tier-1 Partner”* is an HPE Partner which buys directly from HPE for the purpose of resale or distribution to the next tier or End-User. T1 Partners can sell directly to an End-User only if authorized by HPE. T1 Partners may also be referred to as “Distributor”, “Wholesaler”, “Franchisor”, “T1 Reseller” and/or “Reseller A”.



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- k. “T2 Partner” or “Tier-2 Partner” is an HPE Partner which typically buys from T1 Partners or other partners for the purpose of resale to End-Users. T2 Partners may also be referred to as “Resellers”, “Final Tier”, and/or “Reseller B”.
 - l. “Won Deal” is the official approved Hewlett Packard Enterprise End-User Special Negotiated Discount deal that holds both Partner & HPE accountable for transactions, and can be ordered or claimed against. It may require confirmation from the End-User to HPE that the End-User has selected Partners for the deal opportunity.
2. END-USER SPECIAL NEGOTIATED DISCOUNT PROGRAM DESCRIPTION
- a. BUSINESS PROCESS
 1. Partner or HPE sales representative requests End-User Special Negotiated Discount from HPE for a deal opportunity.
 2. All End-User Special Negotiated Discount Quotations are communicated to Partners via the HPE Partner Portal.
 3. All End-User Special Negotiated Discount Quotations must be approved by HPE before they are marked as Won Deals.
 4. HPE posts Won Deals on the HPE Partner Portal.
 5. End-User Special Negotiated Discount Won Deal contains individual line item End-User Special Negotiated Discount offering:
 - a) Big Deal Net Price, or
 - b) Additional % Off HPE List Price
 6. Partners can place orders or submit Rebate Claims to HPE against Won Deals. End-User Special Negotiated Discount offers can be granted in the form of Upfront Discount or Rebate.
 7. HPE reserves the right to perform Back End End-User Validation.
 - b. BUSINESS MODELS
 1. Upfront Model: HPE sells to T1 Partner at Big Deal Net Price or % off HPE List Price.
 - a) T2 Partner must have the End-User purchase order (“PO”) prior to submitting purchase order to HPE or to T1 Partner. T1 Partner that sells directly to an End-User must have the End-User purchase order (“PO”).
 - b) HPE may request immediate delivery of End-User PO prior to order acceptance and/or delivery.
 - c) T1 Partner is required to identify T2 Partner so that HPE can contact T2 Partner for Back End End-User Validation.
 - d) T2 Partner as well as T1 Partners that sell directly to End-Users are responsible for fulfilling the obligations under Section four (4) for Back End End-User Validation even in the case of multiple tiers.
 - e) T1 Partner must confirm shipment of the Upfront Discounted Products and/or Support under each Won Deal via HPE PDAR process. When a T1 Partner uses existing inventory to fulfill an order that is subject to an End-User Special Negotiated Discount then prior to HPE’s shipment to T1 Partner of products and/or support ordered against the Won Deal, the T1 Partner must ensure all details of inventory used to fulfill the Won Deal (e.g. product number, quantity, localization) correspond to the order from T1 Partner to HPE (i.e. stock segregation by PO number within T1 Partner warehouse). T1 Partner must provide a copy of the shipment invoice when required by HPE and that shipment invoice must be consistent with the Won Deal. Partner may exclude any information relating to its resale prices or to other vendors in any documents provided to HPE.
 - f) Products and/or Support must be delivered to the End-User within sixty (60) days after the expiration date of the Won Deal. Exceptions must be granted in writing by HPE prior to the end of the sixty (60) day period.
 2. Rebate Model: HPE sells to T1 Partner at HEWLETT PACKARD ENTERPRISE Partner Agreement price or Promotion Net Price or Channel Partner Non-Standard Discount Net Price. T1 Partner submits Rebate Claim for End-User Special Negotiated Discount discount. T2 Partner must have End-User purchase order (“PO”) prior to submitting purchase order to HPE or to T1 Partner. T1 Partner that sells directly to End-User must have the End-User purchase order (“PO”) prior to submitting Rebate Claim to HPE.
 - a) HPE may request immediate delivery of End-User PO prior to claim approval.
 - b) T2 Partner as well as T1 Partners that sell directly to End User are responsible for fulfilling the obligations under Section four (4) for Back End End-User Validation even in the case of multiple tiers.
 - c) T1 Partner submits Rebate Claim via HPE PDAR process, or other approved means, to HPE when End-



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User Special Negotiated Discount discount is passed through to T2 Partner from T1 Partner.

- d) T2 Partner must submit its Rebate Claim to the T1 Partner from which it ordered the Products and/or Support. In the event that T2 Partner has HPE's prior written authorization to submit its Rebate Claim directly to HPE, that Rebate Claim must be submitted to HPE in the country where it placed its order.
- e) Except upon prior written approval from HPE, the Products and/or Support must be delivered to the End-User within ninety (90) days after the expiration date of the Won Deal.

3. END-USER SPECIAL NEGOTIATED DISCOUNT PROGRAM REQUIREMENTS

- a. HPE Products and/or Support may only be sold for use in the Territory indicated in the Hewlett Packard Enterprise Partner Agreement unless otherwise indicated on a Won Deal. Exceptions must be approved in writing by HPE.
- b. HPE Products and/or Support may only be delivered to the End-User named in the End-User Special Negotiated Discount Quotation or Won Deal and are only for Internal Use. Non-compliance with this Section will be considered as a material breach for the purposes of Section fifteen (15) d of the Hewlett Packard Enterprise Partner Agreement.
- c. HPE does not authorize other promotional program discounts in combination with End-User Special Negotiated Discount discounts.
- d. HPE can establish maximum and/or minimum volume thresholds for End-User Special Negotiated Discount and may change maximum and/or minimum volume thresholds at any time. You are responsible for managing the End-User's purchase volume within the threshold, and requesting any changes to HPE. HPE can reject any Rebate Claim or order that is not within the specified volume threshold(s).
- e. You can participate in the Program only when you are named on a End-User Special Negotiated Discount deal.
- f. HPE will require written confirmation from the End-User, if there are more than two (2) T2 Partners listed on a Won Deal.
- g. You must submit your Rebate Claim or Upfront Discounted purchase for End-User Special Negotiated Discount through HPE's approved PDAR process, or other approved means. The following additional End-User Special Negotiated Discount data elements are required for all End-User Special Negotiated Discount transactions:
 - 1. End-User Special Negotiated Discount ID (also known as Big Deal ID) and its version number.
 - 2. Serial Number, for Products and/or Support that are on HPE's Serial Number Tracking Product List published on the HPE Partner Portal and this in all countries where Serial Number Tracking has been rolled out.
 - 3. Location ID for T2 Partner (ID designated by HPE).
- h. You must obtain an official Hewlett Packard Enterprise End-User Special Negotiated Discount Quotation and Won Deal solely by accessing the HPE Partner Portal.
- i. Any T1 Partner who participates in the End-User Special Negotiated Discount Program must be a PDAR participant.
- j. You must notify HPE if Products and/or Support purchased under this Program are returned by the End-User or if the PO from the End-User is cancelled or changed in anyway. HPE will, at its sole discretion, determine the financial and/or logistical resolution.
- k. End-User Special Negotiated Discount Quotations and Won Deals are HPE confidential information. You may not communicate the contents of a End-User Special Negotiated Discount Quotation and/or Won Deal except to the End-User or next Tier named in the End-User Special Negotiated Discount Quotation and/or Won Deal.
- l. You may not communicate the price of or sell or claim separately components of Bundled Products and/or Support subject to a End-User Special Negotiated Discount.

4. BACK END END-USER VALIDATION

- a. You agree that End-User Special Negotiated Discount will apply solely for resale to the End-User specified in the Won Deal for the End-User's Internal Use only and not for resale or re-supply to other party/ies. For the purposes of this Section four (4) a, End-User includes its Affiliates of which it controls at least fifty-one percent (51%) of the company capital stock or assets.
- b. T2 Partner as well as T1 Partner selling directly to an End-User will (i) ensure in their contract with the End-User that the latter accepts and agrees that Products are for its Internal Use only and not for subsequent re-sale or re-supply to other party/ies and (ii) take all commercially reasonable steps to make sure the End-User complies with such commitment.
- c. You agree to provide HPE, at HPE's request and within ten (10) working days, the following information and



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documentation in order to enable HPE to perform Back End End-User Validation:

1. T1 Partner:

a) A copy of the T2 Partner purchase order, related invoice(s), a proof of delivery (POD) to the T2 Partner, remittance advice confirming payment by the T2 Partner, in addition to the reported sell out information including the HPE product numbers, serial numbers (required in countries where the Serial Number Tracking tool has been rolled out or is otherwise made available) and quantities delivered to the T2 Partner.

b) For all orders shipped directly by the T1 Partner to the End-User on behalf of the T2 Partner: (i) a copy of the T2 Partner purchase order and (ii) a proof of sale to the T2 Partner and subsequent sale by the T2 Partner to the End-User in the form of a signed proof of delivery (POD) or other documents that substantiate the Products were delivered to the named End-User, including the HPE product numbers, serial numbers (required in countries where the Serial Number Tracking tool has been rolled out or is otherwise made available) and quantities delivered.

2. T2 Partner as well as T1 Partner that sells directly to an End-User:

a) A signed proof of delivery (POD) to the End-User, invoices, payment transactions, remittance advice confirming payment by the End-User, or other documents that substantiate that the Products and/or Support subject to End-User Special Negotiated Discount were delivered, including End-User name and address, the HPE product numbers, serial numbers (required in countries where the Serial Number Tracking tool has been rolled out or is otherwise made available), quantities delivered, and delivery date; and

b) A copy of the End-User's purchase order to the T2 Partner or the T1 Partner if it sells directly to the End-User.

You may exclude information relating to your resale prices or relating to other vendors in any documents provided to HPE pursuant to a request for Back End End-User Validation.

d. HPE reserves the right to validate independently that delivery was made to the End-User stated in the Won Deal, and communicate directly with the End-User to perform Back End End-User Validation. T2 Partner, as well as T1 Partner selling directly to End-User, agrees to also independently verify that the Products were duly delivered to the End-User.

5. END-USER CONTACT DATA

HPE may use the End-User contact data provided by you to perform Back End End-User Validation. HPE is entitled to transmit information it receives in relation to these Terms to other affiliated Hewlett-Packard companies as well as to its subcontractors to perform Back End End-User Validation. You shall ensure that you are entitled to transmit such data in compliance with applicable data protection laws and your obligations defined in your contract with the End-User.

6. REBATE CLAIMS

All PDAR reporting Partners must submit Rebate Claim data daily or weekly as per the PDAR process. Rebate Claims will be created for PDAR Partners by HPE or have to be submitted by Non PDAR Partners via the HPE Partner Portal by the end of the month that follows the End-User Shipment Date. Resubmission of Rebate Claims by Partner must be within thirty (30) days from HPE's notification. The applicable Rebate Claim process is provided in your local Hewlett Packard Enterprise Partner Operating Procedure Manual posted on the HPE Partner Portal.

7. NON-COMPLIANCE CONSEQUENCES

In addition to the remedies specified in the HEWLETT PACKARD ENTERPRISE Partner Agreement and any other rights and remedies HPE may have, in the event you fail to comply with any aspect of these Terms HPE may, to the extent permitted by and subject to the law applicable to the HEWLETT PACKARD ENTERPRISE Partner Agreement, decide to implement one or more of the following remedies, with immediate effect or with advance notice, as indicated in our notification, and without judicial recourse:

a. Termination of any existing End-User Special Negotiated Discount deal including any End-User Special Negotiated Discount Quotation and/or Won Deal;

b. Claim the reimbursement of any misused End-User Special Negotiated Discount Upfront Discounts or Rebates. HPE reserves the right to reclaim any misused End-User Special Negotiated Discount, whether Upfront Discount or Rebate, from the T2 Partner or the T1 Partner selling directly to End-User, in the event Products are resold or re-supplied by the End-User or otherwise used in violation of the authorized Internal Use;

c. Without prejudice to our right to claim full compensation for any damage suffered, claim the payment by you of a lump sum indemnity of ten percent (10%) of the HPE list price less the additional End-User Special Negotiated Discount discount of the diverted Products and/or Support; this indemnity will become due as soon as HPE becomes aware of your breach and will be payable upon HPE request;

d. Exclusion from Hewlett Packard Enterprise End-User Special Negotiated Discount Program; and/or



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- e. Exclusion from Hewlett Packard Enterprise Partner compensation programs, and other Partner programs.
8. CHANGES AND TERMINATION
- a. HPE may change or terminate any part or all of these Terms at any time. Changes or termination will be effective thirty (30) days from the notification date, and will be posted on the HPE Partner Portal.
 - b. HPE can change or terminate without cause any End-User Special Negotiated Discount Quotation or Won Deal with immediate effect. Each new version of the End-User Special Negotiated Discount Quotation or Won Deal supersedes all other previous versions, as indicated by the deal number and version number.
 - c. However, for Upfront Discount deals, any change or termination shall not apply to orders placed by the T1 Partner prior to HPE's notification, except in the event of non-compliance with these Terms or of an obvious material error in the End-User Special Negotiated Discount Quotation or Won Deal that you should have noticed. For Rebate deals, any change or termination occurring on or after End-User Shipment Date shall not apply, except in the event of non-compliance with these Terms or of an obvious material error in the End-User Special Negotiated Discount Quotation or Won Deal that you should have noticed.
 - d. In addition, where Partner has an outstanding binding offer which could be accepted by another Partner or End-User, Partner can apply for an HPE exception to extend the duration of the previous version of the Special Pricing Quotation or Won Deal for a maximum additional period of thirty (30) days, which exception HPE will not unreasonably refuse.



HEWLETT PACKARD ENTERPRISE PARTNER PRODUCT PROMOTION AND CHANNEL PARTNER DISCOUNT TERMS

The HEWLETT PACKARD ENTERPRISE Partner Product Promotion and Channel Partner Discount Terms (“Terms”) define the HEWLETT PACKARD ENTERPRISE Partner Product Promotion Program (“Program”) and Channel Partner Non-Standard Discount business process and terms and conditions in conjunction with the HEWLETT PACKARD ENTERPRISE Partner Agreement. To qualify for, participate in and order under the Program, you must have a signed HEWLETT PACKARD ENTERPRISE Partner Agreement. Participation in the Partner Promotion Program or a Channel Partner Non-Standard Discount constitutes acceptance of the Terms. In the event of any conflict between the Terms and the HEWLETT PACKARD ENTERPRISE Partner Agreement, the Terms will govern any subject matter of the Program. Capitalized terms not otherwise defined in the Terms are defined in the HEWLETT PACKARD ENTERPRISE Partner Agreement.

1. DEFINITIONS

- a. “*End-User Shipment Date*” is the date on which T1 Partners ship to either T2 Partners or End-Users.
- b. “*HEWLETT PACKARD ENTERPRISE Partner Data Acquisition & Reporting (“PDAR”)*” is a program requiring Partners to submit actual data covering HPE Products and/or Support purchases, sales and inventory to HPE.
- c. “*Product Promotion Program (“Program” or “Promotion Program”)*” is an HPE program granting additional discounts beyond the HEWLETT PACKARD ENTERPRISE Partner Agreement Discount for a defined list of Products and/or Support for a set duration of time within a designated Territory which will not exceed six months with the exception of Support Agreement Promotions that may be valid up to one year. The objective of the Program is to provide Partner with an additional discount that is expected to pass on to the Customer, it being understood that we will not require any minimum resale price to be charged by you. Promotion Description and Mechanics may vary according to each individual promotion within the Program. A partner which qualifies for and participates in the Program will directly receive an upfront discount or rebate from HPE.
- d. “*Promotion Types*” describes the different types of Promotion Programs. Promotion Types can be changed at anytime by HPE at HPE’s discretion with thirty (30) days notice. Promotion Types are in Appendix 1.
- e. “*Promotion Description & Mechanics*” describes program details and rules including product eligibility, pricing/discounts, effective timeframe, and specific rebate claim rules. The Promotion Description and Mechanics can be found on the HPE Partner Portal.
- f. Pricing and Discount Terminologies:
 1. “*HEWLETT PACKARD ENTERPRISE Partner Agreement Discount*” is the contractual discount granted under the HEWLETT PACKARD ENTERPRISE Partner Agreement.
 2. “*Upfront Discount*” is the Promotion Program or Partner NSD discount provided to Partner at order placement to HPE.
 3. “*Rebate*” is the Product Promotion Program or Partner NSD discount that is paid from HPE to Partner.
 4. “*End of Sale (“EOS”)*”. During EOS a discount is granted to specific Partners when a product is still active but scheduled to end within a defined period of time.
 5. “*Channel Partner Non-Standard Discount (“Partner NSD”)*” is a binding Agreement between HPE and Reseller(s) under which HPE will sell Products and/or Support to Reseller(s) at a Price below standard with no Customer or group of Customers identified. A Partner NSD is not expected to pass on to the Customer, unless otherwise provided by HPE.
 6. Upfront Discounts or Rebates can be offered in following ways:
 - a. “*Additional % Off HPE List Price*” is the additional discount percent off HPE list price in excess of the Hewlett Packard Enterprise Partner Agreement Discount.
 - b. “*Promotion Net Price or Partner NSD Net Price*” is the net promotional cost of the product, after contractual discount and either upfront or back-end discount”
“*Promotion Program Discount*” is the additional discount beyond HEWLETT PACKARD ENTERPRISE Partner Agreement Discount under the Promotion Program. Promotion Program Discount is offered as “Promotion Net Price” or “Additional % Off HPE List Price.”



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- c. *“Partner NSD Discount”* is the additional discount beyond HEWLETT PACKARD ENTERPRISE Partner Agreement Discount under a Partner NSD. A Partner NSD Discount is offered as *“Partner NSD Net Price”* or *“Additional % Off HPE List Price.”*
- 7. *“Rebate Claim”* is the process for Partners to request payment of the Promotion Program or Partner NSD discount by submitting a claim with required information as detailed in the local Hewlett Packard Enterprise Partner Operating Procedure Manual.
- g. *“Partner”* is either a *“T1 Partner”* or a *“T2 Partner”*.
- h. *“T1 Partner”* or *“Tier-1 Partner”* is an HPE Partner which buys directly from HPE for the purpose of resale or distribution to the next tier or Customer. T1 Partners can sell directly to a Customer only if authorized by HPE. T1 Partners may also be referred to as *“Distributor”*, *“Wholesaler”*, *“Franchisor”*, *“Corporate Reseller”*, and/or *“Reseller A”*.
- i. *“T2 Partner”* or *“Tier-2 Partner”* is an HPE Partner which typically buys from T1 Partners or other partners for the purpose of resale to Customers. T2 Partners may also be referred to as *“Resellers”*, *“Final Tier”*, and/or *“Reseller B”*.

2. PROMOTION AND PARTNER NSD PROGRAM DESCRIPTION

a. BUSINESS PROCESS

1. All Promotion Programs and Partner NSD are communicated to Partners exclusively via the HPE Partner Portal.
2. All Promotion Program Discounts and Partner NSD are offered to T1 Partners exclusively via HPE Partner Portal communication. In the event of any conflict between the Promotion Program Discounts or Partner NSD contained in the HPE Partner Portal and any other source the Promotion Program Discount or Partner NSD in the Hewlett Packard Enterprise Partner Portal document shall prevail.
3. Promotional and Partner NSD pricing information contains individual product line item discounts or rebates via:
 - a) Promotions Net Price or Partner NSD Net Price, or
 - b) Additional % Off HPE List Price
 - c) Fixed Rebate amount or Discount off Net Price
4. Promotion Program and Partner NSD discounts can be granted in the form of Upfront Discount or back-end Rebate.
5. Partners can place orders or submit Rebate Claims to HPE against Promotion and Partner NSD offers posted on the HPE Partner Portal.

b. BUSINESS MODELS

1. Upfront Model:

HPE sells to T1 Partner at Promotion or Partner NSD Net Price or on a defined percentage discount price in addition to the Hewlett Packard Enterprise Partner Agreement Discount.

T1 Partner sells to T2 Partner or Final Tier Partner with all-in upfront discount or net price. T1 Partner will receive discount at the time of purchase.

2. Rebate Model:

HPE sells to T1 Partner at HEWLETT PACKARD ENTERPRISE Partner Agreement Price or Promotion Net Price. T1 Partner submits Promotion Program or Partner NSD Rebate Claim via EDI, PDAR, or HPE Partner Portal based claim process to HPE. In countries where EDI, PDAR, or HPE Partner Portal based claim processes are not currently operational, manual based Rebate Claims will continue to be accepted.

The HPE Standard Price Protection rules apply. HPE Price Protection rules are available on the HPE Partner Portal.

T2 Partners receive discounts or rebates based on their agreement with the supplying T1 Partner. T2 Partner must



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submit its Rebate Claim to the legal entity from which it purchased. In the event that T2 Partner has HPE's prior written authorization to submit its Rebate Claim directly to HPE, that Rebate Claim must be submitted to HPE in the country where it placed its order.

3. PROMOTION AND PARTNER NSD PROGRAM REQUIREMENTS

- a. HPE Products and/or Support may only be sold in the Territory indicated in the HEWLETT PACKARD ENTERPRISE Partner Agreement.
- b. HPE does not authorize Promotion Program or Partner NSD Discounts in combination with End-User Special Negotiated Discounts. Promotion Program or Partner NSD Discounts or Rebates can be claimed in combination with other Promotion Program discounts only with the written authorization of HPE. Promotion Program and Partner NSD Discounts are applicable in combination with Sales Goal Attainment Incentives.
- c. HPE can establish maximum and/or minimum volume thresholds for Promotion Program and Partner NSD purchases by Partner and may change maximum and/or minimum volume or value thresholds at any time. You are responsible for managing your purchase volume or value within the threshold, and submitting requests for any changes to HPE. HPE can reject any Rebate Claim or order that is in excess of the maximum volume or value threshold or below the minimum volume or value threshold.
- d. You must submit your Rebate Claim for Promotion Program and Partner NSD Discounts through HPE's approved PDAR process, or other approved means. The following additional Promotion Program and Partner NSD data elements are required for all Promotion Program and Partner NSD transactions:
 1. Promotion Program or Partner NSD ID
 2. Product Number and Serial Number, for Products and/or Support that are on HPE's Serial Number Tracking Product List published on the HPE Partner Portal in all countries where Serial Number Tracking has been rolled out.
 3. Location ID for T2 Partner (ID designated by HPE).
- e. You can access the official Hewlett Packard Enterprise Product Promotion Programs and Partner NSD that you are eligible for on the HPE Partner Portal, though access on the Portal does not in itself imply eligibility.
- f. Any T1 Partner which participates in the Product Promotion Program or Partner NSD must be a PDAR participant.
- g. You must notify HPE if Products and/or Support purchased under the Product Promotion Program or Partner NSD are returned to you by the Customer and used differently than under the conditions of the Product Promotion Program or Partner NSD. HPE will apply the returns policy as described in the Hewlett Packard Enterprise Partner Operating Procedure Manual.
- h. Back-dating of Promotion Programs and Partner NSD is not permitted. Retroactive Rebates will not be honoured for Product and/or Support shipped prior to the effective date of the individual Product Promotion Program or Partner NSD.
- i. By participating in a Hewlett Packard Enterprise Product Promotion Program or Partner NSD you agree to be bound by the conditions of each individual Product Promotion or Partner NSD under the Hewlett Packard Enterprise Partner Promotion or Partner NSD Description and Mechanics which will be detailed in the HPE Partner Portal.
- j. You may not communicate the price of or sell separately components of bundled Products and/or Support subject to a Product Promotion Program or Partner NSD.

4. REBATE CLAIMS

All PDAR reporting Partners must submit Rebate Claim data via the PDAR process daily or weekly. Rebate Claims will be created for PDAR Partners by HPE or have to be submitted by Non-PDAR Partners via the HPE Partner Portal, country specific EDI claim process, or other country defined processes by the end of the month that follows the End-User Shipment Date. Resubmission of Rebate Claims must be within thirty (30) days from HPE's notification. For Rebate Claim process details, you can refer to your local Hewlett Packard Enterprise Partner Operating Procedure Manual via the HPE Partner Portal.

5. NON-COMPLIANCE CONSEQUENCES



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In addition to the remedies specified in the Hewlett Packard Enterprise Partner Agreement and any other rights and remedies HPE may have, in the event you fail to comply with any aspect of these Terms HPE may, to the extent permitted by and subject to the law applicable to the Hewlett Packard Enterprise Partner Agreement, decide to implement one or more of the following remedies, with immediate effect or with advance notice, as indicated in our notification, and without judicial recourse:

- a. Termination of any existing Product Promotion Program or Partner NSD order;
- b. Claim the reimbursement of any misused Product Promotion Program or Partner NSD Upfront Discounts or Rebates;
- c. Exclusion from Hewlett Packard Enterprise Product Promotion Program or Partner NSD; and/or
- d. Exclusion from Hewlett Packard Enterprise Partner compensation programs, and other Hewlett Packard Enterprise Partner programs.

6. CHANGES AND TERMINATION

- a. HPE may change or terminate any part or all of these Terms at any time. Changes or termination of part or all of these Terms will be effective thirty (30) days from the notification date, and will be posted on the HPE Partner Portal. HPE may change or terminate a Product Promotion Program without cause at any time with immediate effect by posting on the HPE Partner Portal.
- b. Each new version of a Product Promotion Program supersedes all other previous versions; as indicated by the version number.
- c. Any change or termination shall not apply to orders accepted by HPE prior to HPE's notification, except in the event of non-compliance with these Terms or of an obvious material error in the Product Promotion Program or Partner NSD that you should have noticed.
- d. However, for Upfront Discount deals, any change or termination shall not apply to orders placed by the T1 Partner prior to HPE's notification, except in the event of non-compliance with these Terms or of an obvious material error in the Product Promotion Program or Partner NSD that you should have noticed. For Rebate deals, any change or termination occurring on or after T1 shipment date shall not apply, except in the event of non-compliance with these Terms or of an obvious material error in the Product Promotion Program or Partner NSD that you should have noticed.
- e. In addition, where Partner has an outstanding binding offer which could be accepted by another Partner or End-User, Partner can apply for an HPE exception to extend the duration of the previous version of the Product Promotion Program or Partner NSD for a maximum additional period of thirty (30) days, which exception HPE will not unreasonably refuse.



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APPENDIX 1 - Promotion Types

- Type 1: Single Product Promotion:**
Typical example: Lowering End-Customer Price Point for a specified time period.
Provides a specific Discount or Rebate for HPE Products and/or Support identified by list of SKU(s), Product Family or Product Line for a specified period.
- Type 2: Non-Cash Product Promotion:**
Typical examples: Create “Buy 3 - Pay 2 units” Product Promotion,
Or: New price-point for set of different Products which may contain Non-HPE Products and/or Services.
Provides discounts or rebates which compensate the free product or enables an improved Sales Price for the set of SKUs and/or Non-HPE parts in a specified period.
Buy/sell this set of SKUs and receive associated Product(s) or Service(s) Support free.
- Type 3: Bundle Product Promotion:**
Typical example: Buy/sell HPE -Products as Bundle and receive a Discount or Rebate within a defined period.
Provides a specific Discount or Rebate for a list of SKUs which must be bought/sold together, during a specified period. Conditions might apply.
- Type 4: Minimum/Maximum Value Product Promotion:**
Grants specific Discount or Rebate within a defined period of time for listed HPE Products and/or Support, Product Family or Product Line when passing a specified minimum Transaction Value (Currency Volume) or minimum Unit Number in a defined period.
- Type 5: Maximum Value Product Promotion:**
Grants specific Discounts or Rebates to Partners within a defined period of time for listed HPE Products and/or Support up to a listed Maximum Transaction Value (Currency Volume) or Maximum Unit Number of Product SKUs, Product Family or Product Line. Maximum Limits per Partner might occur.
- Type 6: Trade-In/Trade-Up Product Promotion:**
Grants additional Discounts/Rebates on new Products when returning defined old Products within a Promotion Period. Provides a listing of eligible old products and available rebates when buying specified new Products. Existing return process in countries are to be utilized.
- Type 7: Sliding Scale Product Incentive Program:**
Grants specific incremental discounts or Rebates which are depending on Product and/or Support volume sold. Discount/Rebate increments are related to listed scaling Sales Volumes of HPE Products and/or Support identified by list of SKU(s), Product Family or Product Line in specified promotion period.
- Type 8: Straight Product Promotion with Conditions:**
Provides a specific Discount or Rebate for listed HPE Consumer Products after meeting defined conditions within the promotion period.