

VMWARE PROFESSIONAL SERVICES EXHIBIT

Last updated: 16 June 2022

This Professional Services Exhibit to the General Terms applies if Customer purchases Professional Services.

1. **PROFESSIONAL SERVICES.** VMware will provide Professional Services as described in the SOW.
2. **PROCESS.**
 - 2.1. **Project Change Request.** Either party may request a modification to agreed Deliverables or a material SOW provision by submitting a project change request (“PCR”) to the other party. The parties will execute the PCR if it is mutually acceptable. VMware may not unreasonably refuse to accept a PCR initiated by Customer if Customer agrees to bear the pricing and schedule impacts. If the Parties are unable to agree within five (5) business days after the PCR is submitted, then the submitting Party may withdraw the PCR or terminate the SOW. If the SOW is terminated, Customer must pay for the Deliverables delivered, Professional Services performed, and all non-refundable expenses incurred by VMware (e.g. airfare).
 - 2.2. **Customer Delays.** VMware’s performance of the Professional Services is contingent on Customer’s timely delivery of required Customer Materials.
 - 2.3. **Cancelling or Rescheduling.** Customer must provide notice at least 10 business days prior to the start of the Professional Services to reschedule or cancel an SOW. If Customer reschedules or cancels an SOW, Customer must pay all non-refundable expenses incurred by VMware.
 - 2.4. **Late Payments.** VMware may suspend performance of Professional Services while any late payment is delinquent.
 - 2.5. **Completion.** VMware will provide Customer with a milestone completion form or timesheet for completed Professional Services. Customer has 10 business days to approve milestone completion forms or timesheets. Unless Customer provides written notice to VMware that the Professional Services do not substantially conform with the SOW within 10 business days, the Professional Services and Deliverables will be deemed accepted.
3. **INTELLECTUAL PROPERTY.**
 - 3.1. **Ownership.** Other than VMware Retained Materials, Customer will own the copyright to the portion of the Deliverables consisting solely of written reports, analyses, and other working papers, subject to Customer’s full payment of all amounts due under the SOW and VMware’s rights in the underlying intellectual property embodied in the Deliverables. Customer may not resell or distribute the Deliverables to any third party.
 - 3.2. **VMware Retained Materials.** VMware grants Customer a non-exclusive, non-transferrable, worldwide, perpetual license to use and copy the VMware Retained Materials only for Customer’s internal business operations. Third-Party Agents may use the Deliverables only for the benefit of Customer. The license granted in this section 3.2 does not apply to Software, Cloud Services, or any products licensed under a separate agreement.
 - 3.3. **Customer Materials.** Customer grants VMware a non-exclusive, non-transferrable right to use Customer Materials solely for the benefit of Customer in the performance of Professional Services. Customer warrants that it has sufficient rights to Customer Materials for VMware to lawfully perform Professional Services.
4. **NON-SOLICITATION.** During the term of the SOW and for six months after, neither party will solicit the employment of the employees or contractors of the other party who were involved in the performance under the SOW. Any public solicitation not directed specifically to a person is not a solicitation for purpose of this provision. This provision is not intended to limit a person’s right to change jobs.
5. **ACKNOWLEDGEMENT.** The Professional Services do not include significant production, modification, or customization of Software.
6. **DEFINITIONS**

Customer Materials means any materials provided to VMware by Customer in connection with the Professional Services.

VMware Retained Materials means: (a) materials developed or obtained by or for VMware independently of any Professional Services; (b) subsets or modules of Deliverables that by themselves provide generic technical information not unique to Customer’s business; and (c) scripts, codes, and templates VMware develops while performing any Professional Services.