

## PKWARE, INC. PROFESSIONAL SERVICES TERMS AND CONDITIONS

THIS AGREEMENT GOVERNS YOUR PURCHASE AND RECEIPT OF OUR PROFESSIONAL SERVICES. BY ACCEPTING THIS AGREEMENT, BY EXECUTING A STATEMENT OF WORK ("SOW") OR ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT RECEIVE THE PROFESSIONAL SERVICES.

### 1. DEFINITIONS.

**"Affiliate"** means a subsidiary, affiliate or other entity which (i) the subject entity consolidates into its audited financial statements; and (ii) is at least fifty percent (50%) owned by the subject entity.

**"Agreement"** means this Professional Services Agreement and any SOW's, exhibits, schedules and addenda.

**"Change Order"** means any change to an SOW, as applicable, as described in the "Change Orders" section below. Change Orders will be deemed incorporated by reference in the applicable SOW, as applicable in the absence of an SOW.

**"Deliverable"** means a deliverable under an SOW.

**"SOW" or "Statement of Work"** means a statement of work or other order form describing services to be provided hereunder, that is entered into between You and PKWARE.

**"You" or "Customer"** means the company or other legal entity for which you are accepting this Agreement together with Affiliates of that company or entity which have signed SOWs for services.

**2. SERVICES.** PKWARE, Inc. ("PKWARE") will perform for Customer the services listed in the SOW ("Services"), and Customer shall pay PKWARE for the Services as indicated. The manner and means by which PKWARE chooses to complete the Services are in PKWARE's sole discretion and control. The Deliverables described in this Agreement will be deemed accepted upon delivery. The Services, the Deliverables and the methods and technology used by PKWARE to produce the Deliverables are not works made for hire, and PKWARE, subject to the provisions of Section 7, shall retain all intellectual property rights to the Deliverables. The sale of any PKWARE products or licenses, and the fees therefore, shall be the subject of a separate agreement or agreements between PKWARE and Customer.

**3. INVOICES.** Unless otherwise agreed in the Agreement or the applicable Statement of Work, PKWARE will invoice Customer upon execution of an SOW. Amounts payable to PKWARE under this Agreement are payable in full without deduction (net of applicable taxes, costs and expenses) and Customer shall pay all such applicable taxes, costs and expenses (exclusive of taxes on PKWARE's net income) within thirty (30) days of the date of PKWARE's invoice. All amounts are in U.S. Dollars unless specified otherwise. Any sums not paid when due shall accrue interest at a rate of 1.5% per month or the maximum rate allowed by law, whichever is less, from the date first due. Customer shall also be responsible for any and all costs of collection, including actual attorneys' fees, for any sums not paid when due.

**4. EXPENSES.** Unless otherwise agreed in the Agreement, Customer shall reimburse PKWARE for all reasonable expenses incurred in the performance of the Services including, but not limited to, travel and living expenses. Customer shall also reimburse PKWARE for any other expenses incurred at the request of Customer, as well as additional amounts related to the performance of Services outside normal business hours or consecutive days. If Customer reschedules onsite engagement dates after PKWARE has booked travel, Customer shall pay PKWARE for any cancellation or change fees.

**5. CHANGE ORDERS.** Changes to a SOW will require a written Change Order signed by the parties prior to implementation of the changes. For example, such changes may include revising the scope of work and any corresponding changes to the estimated fees and schedule.

**6. CERTIFICATE OF COMPLETION.** Upon completion of the engagement, Customer will receive a Certificate of Completion for signature. If not signed within 5 business days from Customer's receipt, work will be deemed accepted, unless Customer submits a written notification of a service performance issue within 5 business days upon completion of the engagement.

### 7. USE OF WORK PRODUCT.

**7.1** Customer obtains a non-exclusive, non-transferable, and perpetual right to use the work product delivered to Customer under this Agreement ("Deliverables") for the purpose outlined in the Agreement or applicable Statement of Work. Customer shall not sell, license, publish, distribute, lease, rent or otherwise transfer the Deliverables or perform, display or otherwise use the Deliverables in

the operation of a service bureau or for the benefit of third parties except as otherwise expressly provided herein. The Deliverables expressly exclude PKWARE's commercial off-the-shelf software solutions.

**7.2** Subject to Section 7.1, Customer shall not reverse engineer, decompile, disassemble or apply any process, technique, or procedure or make any attempt to ascertain or derive the source code to any product or other data, materials, items and technology owned by PKWARE or its affiliated companies or its or their licensors, including, without limitation, the Deliverables.

**8. CONFIDENTIAL INFORMATION.** PKWARE and Customer acknowledge that each party may have access to certain of the other party's confidential and proprietary information in connection with the performance of the Services (the "Confidential Information"). Each party will take all reasonable precautions necessary to safeguard the confidentiality of the other party's Confidential Information, including those taken by such party to protect its own confidential information of a similar nature. Each party will use the other party's Confidential Information solely to fulfill the purposes of this Agreement. Neither party will have any confidentiality obligation with respect to any portion of the other party's Confidential Information that (i) it independently develops without reference to the Confidential Information, (ii) it lawfully obtains from a third party under no obligation of confidentiality or (iii) becomes available to the public other than as a result of its act or omission.

**9. ASSIGNED PERSONNEL.** Neither PKWARE nor its employees, agents, contractors, consultants, or representatives are or shall be deemed employees of Customer. PKWARE reserves the right to determine, replace or assign any of its employees, agents, contractors, consultants or representatives designated to perform the Services. During the term of this Agreement and for twelve (12) months afterward, Customer will not, except by general advertisement or with written consent, solicit for employment or employ PKWARE's employees associated with this Agreement.

**10. LIMITED WARRANTY.** PKWARE warrants to Customer that the Services to be provided under this Agreement will be performed by qualified personnel, subject to such supervision and reasonable instructions as may be provided or imposed by Customer, and will be of a quality reasonably expected of such qualified personnel. PKWARE's sole liability and Customer's sole remedy under this limited warranty shall be to re-perform or correct any non-conforming Services to the extent due to errors on the part of PKWARE, provided Customer notifies PKWARE of such non-conformance within ten (10) days after the completion of such Service or any defined portion or segment thereof.

**11. DISCLAIMER.** PKWARE MAKES NO OTHER WARRANTIES, CONDITIONS OR REPRESENTATIONS, WRITTEN OR ORAL, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES, CONDITIONS OR REPRESENTATIONS OF DESIGN, SATISFACTORY QUALITY, FITNESS FOR ANY SPECIFIC OR GENERAL PURPOSE, TITLE OR NON-INFRINGEMENT, ALL OF WHICH ARE, TO THE EXTENT PERMISSIBLE BY LAW, HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

**12. LIMITATION OF LIABILITY.** NEITHER PKWARE NOR ANY EMPLOYEE, AGENT OFFICER, DIRECTOR, CONTRACTOR, CONSULTANT OR REPRESENTATIVE SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL LOSSES OR OTHER DAMAGES, WHETHER OR NOT THE POSSIBILITY OF SUCH LOSSES OR DAMAGES HAS BEEN DISCLOSED IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN BY PKWARE. PKWARE'S LIABILITY, IF ANY, FOR ANY CLAIM OR LOSS ARISING OUT OF, OR CONNECTED WITH, THE SERVICES, INCLUDING BREACH OF CONTRACT, WARRANTY, OR NEGLIGENCE, MAY NOT BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION ARISES, SHALL BE LIMITED SOLELY TO CUSTOMER, AND SHALL NOT EXCEED THE AMOUNTS PAID TO PKWARE BY CUSTOMER FOR SUCH SERVICES.

**13. FORCE MAJEURE.** Neither party shall be responsible for failure to fulfill any obligations due to causes beyond its control including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation, or order (whether valid or invalid) of any governmental body, except that such causes shall not extend the due date for, or excuse the timely payment of, any amounts payable by a party hereunder.

**14. EXPORT COMPLIANCE.** The Professional Services, including Deliverables, may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Neither party will access or use any Deliverables or Confidential Information provided to it hereunder in a U.S.-embargoed country or region (currently the Crimea region, Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or governmental regulation.

**15. GENERAL.** The Agreement, together with any SOWs, contains the entire agreement between PKWARE and Customer and supersedes all other agreements, proposals, purchase orders, or representations, whether written or oral, relating to the subject matter. The terms and conditions of any purchase order or other instrument issued by Customer that are in addition to or inconsistent with this Agreement are null and void and are not binding on PKWARE. Any alterations, modifications or waivers must be in writing and signed by both parties. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. The laws of the State of Wisconsin shall govern this Agreement without regard to principles governing choice of law, and

any disputes regarding the Services shall be subject to the exclusive jurisdiction of courts of the state of Wisconsin in the County of Milwaukee or in federal courts location in such state and county.