

PERFORCE® MASTER TERMS AND CONDITIONS

These Perforce® Master Terms and Conditions (the “**MTaC**”) apply to the provision of the products or services identified on the Order Form (defined below) by Perforce Software, Inc., a Delaware corporation, on behalf of itself and its Affiliates (defined below) (“**Perforce**”) to the customer entity identified on such Order Form (defined below) (“**Customer**”). The MTaC and any applicable product or services supplement related hereto (each a “**Supplement**”) are incorporated into the Order Form, and together with the Order Form, form the “**Agreement**.” A listing of the Supplements that are available under this Agreement is provided on **Exhibit A** to this Agreement, and these Supplements apply to the extent that the applicable product or service is listed on the Order Form for purchase by Customer. To the extent there is any conflict between the Order Form, the MTaC, or any Supplement related thereto, such conflict shall be resolved pursuant to the following order of precedence: (i) an amendment to this Agreement; (ii) the Order Form; (iii) any applicable Supplement; and (iv) the MTaC. Perforce and Customer are referred to in this Agreement each as a “**Party**” and together as the “**Parties**.”

1. DEFINITIONS. For purposes hereof, the terms provided below, when used anywhere in this Agreement with initial capital letters, will have the respective meanings as set forth below:

“**Affiliate(s)**” means any natural person or entity that directly or indirectly controls or is controlled by or is under common control with a Party. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Party whether through the ownership of voting securities, by contract, or otherwise.

“**API**” means an application programming interface.

“**Cloud Services**” means Perforce’s hosted technology solutions and related programmatic interfaces delivered via the internet pursuant to this Agreement. Cloud Services encompass subscription-based software functionality, development platforms, managed infrastructure, hosted environments, and web-based training resources, whether provided independently or bundled with On-Premises Software. Cloud Services do not include On-Premises Software, Customer Content, or Third-Party Content.

“**Content**” means any information, materials, or works in any medium or format, including without limitation documents, data, databases, text, graphics, audio files, video files, photographs, images, illustrations, software code, three-dimensional models, designs, and any other digital or electronic materials.

“**Customer Content**” means all Content that Customer or its authorized users upload, input, transmit, or otherwise make available through the Offerings, together with any results, outputs, or derivatives that Customer or its authorized users generate using the Offerings. Customer Content does not include: (a) Third-Party Content; or (b) any materials proprietary to Perforce, its Affiliates, or their licensors that are incorporated into or made accessible through the Offerings.

“**Documentation**” means the user documentation, in written, electronic, or other format that describes the On-Premises Software or the Cloud Services that Perforce makes generally available to its customers and/or licensees.

“**Deliverables**” means any work product, reports, documentation, configurations, customizations, or other materials specifically identified as deliverables in an applicable SOW and delivered by Perforce to Customer as part of Professional Services. Deliverables do not include any Perforce Intellectual Property, pre-existing materials, tools, methodologies, frameworks, templates, or general know-how of Perforce, even if incorporated into or used to create Deliverables.

“**Entitlements**” means the scope of Customer’s authorized use of an Offering as documented in the applicable Order Form, which may specify parameters such as: (a) license type and permitted use cases; (b) authorized user counts and user categories; (c) geographic restrictions; (d) resource allocations including storage capacity and processing power; (e) usage thresholds and consumption limits; and (f) other quantitative or qualitative restrictions on use.

“**Intellectual Property Rights**” means all trade secrets, patents and patent applications, trademarks (whether registered or unregistered and including any goodwill acquired in such trademarks), service marks, trade names, copyrights, moral rights, database rights, design rights, rights in know-how, rights in Confidential Information, rights in inventions (whether patentable or not) and all other intellectual property and proprietary rights (whether registered or unregistered, any application for the foregoing, and all rights to enforce the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world.



"Malicious Code" means any viruses, worms, malware, spyware, poison pills, time bombs, backdoors, drop dead dates, Trojan Horses, or other destructive or disabling devices that are intended to do harm to computing systems.

"Offering" means an individual offering, made available by Perforce and identified in an Order Form, which consists of Cloud Services or On-Premises Software, or a combination of any of the foregoing, any associated Support Services, and the related Documentation.

"On-Premises Software" means software licensed by Perforce under this Agreement and made available for download or otherwise delivered to Customer for installation, including updates, modifications, design data, and all copies thereof, associated software-based APIs, scripts, toolkits, libraries, reference or sample code, and similar materials.

"Open-Source Software" means the software with its source code made available pursuant to a license by which, at a minimum, the copyright holder provides anyone the rights to study, change, and/or distribute the software to anyone and for any purpose.

"Order Form" means a Perforce ordering document that (a) incorporates the terms of this Agreement and sets forth the Offering(s) ordered by Customer and any associated fees, (b) has been agreed to by Customer by manual or electronic signatures or through an electronic system specified by Perforce, and (c) is accepted by Perforce.

"Services" means consulting, implementation, training, or other professional services provided by Perforce under a Statement of Work.

"Statement of Work" or **"SOW"** means an ordering document that describes Professional Services to be performed by Perforce, including the scope, deliverables, timeline, fees, and any assumptions or dependencies. Each SOW is subject to the terms of this Agreement and, upon execution by both Parties, is incorporated into this Agreement. In the event of any conflict between an SOW and this Agreement, this Agreement shall control unless the SOW expressly states that it is intended to supersede a specific provision of this Agreement.

"Third-Party Content" means any Content, data, software, applications, services, materials, or other information that is provided, made available, or accessible by or from any third party (including but not limited to third-party vendors, service providers, licensors, or other entities that are not Perforce or its Affiliates) through, in connection with, or as part of any Offering, including without limitation any Content that may be integrated with, linked to, or accessible through Cloud Services or On-Premises Software. Third-Party Content is not owned, controlled, endorsed, or maintained by Perforce or its Affiliates and may be subject to separate terms and conditions imposed by the applicable third party.

"Support Services" means the maintenance and support services that are applicable to the On-Premises Software or the Cloud Services identified in the Order Form.

2. Order and Fees

2.1. Ordering. The Parties may enter into one or more Order Forms under this Agreement. Each Order Form is binding on the Parties and is governed by the terms of this Agreement.

2.2. Payment. As consideration for use and receipt of an Offering, Customer shall pay all fees specified in each Order Form ("Fees"), in advance, within thirty (30) days after the invoice date unless otherwise agreed by the Parties. Without limiting any other remedies available to Perforce, Customer will pay applicable Fees for any excess use of an Offering at the then-current price for such Offering within thirty (30) days after the invoice date. Except as expressly set forth in this Agreement or an Order Form, (a) payment obligations are non-cancelable and all Fees paid are non-refundable; (b) Fees are based on Entitlements purchased and not actual usage; and (c) quantities purchased cannot be decreased during the relevant subscription term. Perforce reserves the right to charge Customer interest on any payments received after their due date at a rate equal to one and one-half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is lower, and such amounts will be paid by Customer to Perforce within thirty (30) days after the invoice date.

2.3. Tax. Fees quoted and invoiced under this Agreement do not include any sales, use, value-added, goods and services, withholding, or other taxes, tariffs, duties, or governmental assessments of any kind (collectively, "Taxes"). Customer is responsible for all Taxes associated with its purchases hereunder, excluding taxes based solely on Perforce's net income. If Customer claims tax-exempt status, Customer must furnish Perforce with valid exemption documentation (such as a resale certificate or direct pay permit) before the transaction closes. Where applicable law requires Customer to withhold Taxes from payments to Perforce, Customer shall gross up the payment amount so that Perforce receives the

full invoiced amount after such withholding. Customer shall provide Perforce with official tax receipts or other documentation sufficient to establish that withheld Taxes have been remitted to the appropriate authority.

3. USE OF OFFERING

3.1. Use Rights. For any Cloud Services, On-Premises Software and/or Documentation contained within an Offering, Perforce grants Customer a nonexclusive, nontransferable, non-sublicensable, limited right to access and use Cloud Services, and/or Documentation and to install and use On-Premises Software for Customer's internal business purposes during the applicable Term or such other time period specified in the Order Form, solely in accordance with the Entitlements and this Agreement.

3.2. Entitlements. The licensing terms and authorized access to an Offering are defined in the Entitlements, which may include limits on users, data volumes, computing resources, or other metrics as specified in the Order Form. Customer will ensure that any access or use of an Offering on Customer's behalf, at Customer's invitation, or by invitation of a Customer user, complies with Customer's obligations under this Agreement. If Customer becomes aware of any violation of this Agreement by a user or any unauthorized access to any user account, Customer will immediately notify Perforce and terminate the relevant user or user account's access to the Offerings. Customer is responsible for any act or failure to act by any user using or accessing the account of a user in connection with this Agreement. Customer acknowledges and agrees that users who submit declarations, notifications, or orders to Perforce are acting on Customer's behalf. If a Customer Affiliate accesses or uses an Offering, such Affiliate shall be bound by all terms and conditions of this Agreement, and Perforce shall have the right to enforce its rights directly against that Affiliate in addition to all rights Perforce may exercise against Customer.

3.3. General Use Restrictions. Except as authorized in this Agreement, Customer will not, and will not permit any person or entity to, (i) resell, transfer, sublicense, publish, loan, or lease any Offering, or use any Offering for the benefit of any third party without the prior written consent of Perforce, (ii) modify, alter, tamper with, repair, or create derivative works of any Offering, (iii) reverse engineer, disassemble, decompile, or otherwise attempt to discover the source code, system prompts or underlying logic of any Offering, (iv) use any Offering in a manner that could subject such Offering to any open source software license that conflicts with this Agreement or that does not otherwise apply to such Offering, (v) use any Offering or any associated logs, prompts or outputs for the purpose of developing, training, improving or enhancing any product or service that is competitive with such Offering, or (vi) remove any proprietary notices or legends contained in or affixed to any Offering. Customer will only use APIs identified as 'published' in the Documentation, and only as described therein to support the authorized use of Offerings. At Perforce's direction, Customer must create and use a dedicated API key(s), for its use of the Offerings and shall (A) restrict access to such API key, system prompt and associated logs to Customer's personnel with a need to know; and (B) not use or analyze any logs, prompts or outputs associated with such key for the purpose of discovering, replicating or deriving Perforce's Confidential Information, system design or other Perforce Intellectual Property (defined below). Customer may copy On-Premises Software or Documentation only as required to support use of the Offering as expressly authorized in this Agreement, and will ensure that any such copy includes all proprietary notices contained in the On-Premises Software, the Documentation, or as affixed thereto as received from Perforce. The restrictions set forth in this **Section 3.3 (General Use Restrictions)** do not apply to the extent they conflict with mandatory applicable law.

3.4. Reservation of Rights. All On-Premises Software, Cloud Services, and non-public Documentation are trade secrets of Perforce and its licensors. Perforce retains all title to and ownership of On-Premises Software, Cloud Services, Documentation, and Perforce Intellectual Property (defined below). Perforce reserves all rights in Offerings and Perforce Intellectual Property not expressly granted in this Agreement.

3.5. Evaluation Use. If Perforce has provided Customer with On-Premises Software or access to its Cloud Services for evaluation purposes, then such use of, or access to, such software is permitted only for Customer's internal evaluation purposes during the period designated by Perforce on the Order (or if not designated, thirty (30) days) (the "**Evaluation Period**"). If Customer decides to license use of any of the On-Premises Software, or Cloud Services, after the Evaluation Period, Customer must obtain a paid license under terms set forth in the applicable Order Form. If Customer decides not to obtain a paid license for any On-Premises Software or Cloud Services after the Evaluation Period, Customer must cease using the On-Premises Software and the Cloud Services, and Customer must delete any copies of the On-Premises Software from Customer's systems. On-Premises Software or Cloud Services licensed during the Evaluation Period is provided "as-is" and Perforce does not provide technical and maintenance services or offer any warranties until a paid license is obtained.

3.6. Non-Perforce Software. The Offering may interoperate with third party products (by way of example, product integrations, plugins, or connectors) (“**Non-Perforce Software**”), and Customer may choose to enable such interoperability on Customer’s own or through a third-party vendor. The use of any such Non-Perforce Software is subject to the paid Term specified under the applicable Order Form. Perforce makes no representations whatsoever about the Non-Perforce Software and Perforce has no control over such Non-Perforce Software. Customer acknowledges and agrees that Perforce: (a) is not responsible for such Non-Perforce Software, including without limitation, technical and maintenance services; and (b) cannot guarantee the continued availability of such Non-Perforce Software. Further, Customer acknowledges and agrees that the use of any Non-Perforce Software is governed by such Non-Perforce Software third party vendor’s terms and conditions or such other agreement.

4. ADDITIONAL TERMS FOR ON-PREMISES SOFTWARE. The following additional terms apply to any On-Premises Software contained within an Offering:

4.1. On-Premises Software is provided in object code form only, unless otherwise specified in this Agreement. To the extent that any On-Premises Software is provided by Perforce in source code form, Customer may only use that On-Premises Software to modify or enhance the applicable Offering that such On-Premises Software is a part of, and, as between the Parties, all such modifications or enhancements will be owned by Perforce and subject to the license set forth in **Section 3.1** (Use Rights) of this Agreement. Customer hereby consents to the installation of On-Premises Software on systems used by Customer, as may be facilitated by Cloud Services.

5. ADDITIONAL TERMS FOR CLOUD SERVICES. The following additional terms apply to any Cloud Services contained within an Offering:

5.1. Evolution of Cloud Services. Perforce continuously develops and enhances its Cloud Services and reserves the right to update, modify, or replace features and functionality. Perforce commits that, during an active Term, it will not withdraw or substantially diminish the core capabilities of Cloud Services unless: (a) required by changes in law or regulation; (b) necessitated by the unavailability of third-party technology or services on which the Cloud Services depend; or (c) required to remediate a security vulnerability that cannot practicably be addressed by other means. If Perforce determines that any such change will materially and adversely affect Customer’s use of Cloud Services, Perforce will provide advance written notice as soon as reasonably practicable. Following receipt of such notice, Customer may elect to terminate the affected Order Form by delivering written notice to Perforce within thirty (30) days. Upon such termination, Perforce will issue a pro-rata refund of any prepaid, unused Fees for the balance of the Term.

5.2. Boundaries of Cloud Services. Customer’s use of Third-Party Content accessible through or in connection with Cloud Services is governed exclusively by Customer’s relationship with the applicable third-party provider, and Perforce disclaims all responsibility for such Third-Party Content. The Cloud Services do not include, and Perforce bears no responsibility for: (a) Customer’s internet connectivity, network access, or telecommunications services; (b) hardware, software, or infrastructure required on Customer’s side to access the Cloud Services; or (c) data transmission occurring outside Perforce’s hosting environment, including the network path between Customer’s systems and Perforce’s data center perimeter.

5.3. Acceptable Use Policy. Customer will comply, and ensure that all users of any Offering comply, with Perforce’s Acceptable Use Policy that is provided to the Customer, or may be accessed on the Perforce website.

5.4. Customer Content. All rights, title, and interest in and to Customer Content are and shall remain the property of Customer. Perforce and its subcontractors will use Customer Content only for the purpose of providing the Offerings, or as otherwise permitted by this Agreement or agreed by the Parties. Customer is responsible for the content, management, transfer, use, accuracy, and quality of Customer Content and the means by which Customer acquires such Customer Content.

5.5. Security of Customer Content. Perforce implements technical and organizational measures intended to safeguard Customer Content against unauthorized access, alteration, or destruction, including encryption protocols for data at rest and in transit. Notwithstanding such measures, Customer retains primary responsibility for protecting its Customer Content, including implementing appropriate backup and recovery procedures. Certain Cloud Services may include collaboration or sharing functionality that permits Customer to grant third parties access to Customer Content or to publish Customer Content publicly. Customer’s decision to utilize such features, and any resulting exposure of Customer Content, is made at Customer’s sole discretion and risk.

5.6. Data Processing. To the extent Customer Content includes personal data subject to data protection laws, the data processing terms set forth in Perforce's Data Processing Addendum ("DPA"), as may be updated by Perforce from time to time, shall apply to such processing. The current version of the DPA is available at perforce.com/legal and is incorporated herein by reference. Customer is responsible for reviewing the current version of the DPA and ensuring its compliance with applicable data protection requirements. The DPA applies only to the extent Perforce actually processes personal data on Customer's behalf through the Cloud Services, and Customer acknowledges that certain Cloud Services may not involve any processing of personal data.

6. INTELLECTUAL PROPERTY

6.1. Perforce Technology. As between the Parties, Perforce owns and retains all right, title, and interest in and to: (a) the Offerings, including all software, systems, interfaces, APIs, algorithms, machine learning models, system prompts, and documentation; (b) all improvements, modifications, derivative works, updates, and enhancements to the Offerings, whether developed by Perforce independently or in connection with this Agreement; (c) Perforce's proprietary tools, methodologies, frameworks, templates, processes, training materials, and know-how used in connection with the Offerings or Professional Services; (d) all intellectual property rights in the foregoing, including patents, copyrights, trademarks, trade secrets, and moral rights (collectively, "**Perforce Technology**"). Customer acknowledges that the system prompts, model configurations, and related elements of any AI-enabled Offerings constitute Perforce Technology and trade secrets. No rights in Perforce Technology are granted to Customer except the limited use rights expressly set forth in this Agreement.

6.2. Customer Technology. As between the Parties, Customer owns and retains all right, title, and interest in and to: (a) Customer Content; (b) Customer's pre-existing intellectual property and proprietary materials; and (c) any materials developed by Customer independently of this Agreement (collectively, "**Customer Technology**"). Nothing in this Agreement transfers any ownership interest in Customer Technology to Perforce.

6.3. Deliverables Ownership. (a) **Custom Deliverables.** To the extent any Deliverable consists of materials created specifically for Customer and does not incorporate Perforce Technology, Customer shall own such Deliverable upon Customer's payment in full of all applicable fees. Perforce hereby assigns to Customer all right, title, and interest in such Custom Deliverables upon such payment. (b) **Deliverables Incorporating Perforce Technology.** To the extent any Deliverable incorporates, is derived from, or requires Perforce Technology for its operation, Perforce retains all ownership rights in such Perforce Technology. Subject to Customer's payment of applicable fees and compliance with this Agreement, Perforce grants Customer a non-exclusive, non-transferable, non-sublicensable license to use such Deliverable solely for Customer's internal business purposes in connection with Customer's authorized use of the Offerings. Customer shall not extract, decompile, reverse engineer, or separately exploit any Perforce Technology embedded in Deliverables. (c) **Pre-Existing Materials.** To the extent Perforce incorporates any of its pre-existing materials into a Deliverable, Perforce retains ownership of such pre-existing materials, and Customer's license is limited to use as part of the Deliverable.

6.4. Residual Knowledge. Nothing in this Agreement restricts Perforce's right to use and apply general skills, knowledge, experience, concepts, and techniques acquired or developed during the performance of this Agreement, provided that Perforce does not disclose Customer's Confidential Information or infringe Customer's intellectual property rights.

6.5. Reservation of Rights. All rights not expressly granted in this Agreement are reserved. No implied licenses are granted by this Agreement.

7. CONFIDENTIALITY

7.1. Confidential Information. Each Party (the "**Discloser**") may disclose to the other Party (the "**Recipient**") information pertaining to this Agreement and the Offerings that the Discloser considers confidential ("**Confidential Information**"). Confidential Information includes: (i) any information marked, labeled, or otherwise designated as confidential when disclosed; (ii) any information identified orally as confidential at the time of disclosure and confirmed in writing within thirty (30) days thereafter; (iii) any information that a reasonable person would consider confidential under the circumstances, including without limitation technical data, trade secrets, know-how, research, product plans, products, services, customers, customer lists, markets, software, developments, inventions, processes, formulas,

technology, designs, drawings, engineering, hardware configuration information, marketing, finances, or other business information; and (iv) all copies, derivatives, summaries, analyses, or other materials prepared by Recipient that contain, reflect, or are derived from Confidential Information. Notwithstanding anything herein to the contrary, all Offerings, pricing information, the terms of this Agreement, and Perforce's methodologies, tools, templates, frameworks, and processes used in connection with Professional Services shall be deemed Confidential Information of Perforce. The confidentiality obligations set forth in this Section 7 apply to all Professional Services engagements and any information exchanged in connection therewith.

7.2. Use and Protection. Recipient may use Confidential Information solely for the purposes of this Agreement and the Offerings contemplated herein. Recipient agrees to: (i) maintain Confidential Information in strict confidence using the same degree of care it uses to protect its own confidential information, but in no event less than reasonable care; (ii) implement and maintain appropriate physical, technical, and administrative safeguards to protect Confidential Information from unauthorized access, use, or disclosure; (iii) limit access to Confidential Information to its Affiliates, employees, directors, officers, agents, advisors, and third-party contractors who have a legitimate need to know such information for the purposes of this Agreement and who have been informed of the confidential nature of such information and are bound by confidentiality obligations no less restrictive than those contained herein; (iv) not reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code or underlying ideas or algorithms of any Confidential Information; (v) not use Confidential Information to develop, manufacture, market, or distribute any products or services that compete with the Discloser's products or services; and (vi) immediately notify Discloser upon discovery of any unauthorized use or disclosure of Confidential Information. Recipient shall not export, reexport, or transfer Confidential Information in violation of applicable export control laws.

7.3. Exceptions. The confidentiality obligations set forth herein shall not apply to information that Recipient can demonstrate by competent written evidence: (a) was rightfully known to Recipient prior to disclosure by Discloser, as evidenced by Recipient's written records predating such disclosure; (b) is or becomes publicly available through no breach of this Agreement or other wrongful act by Recipient or its representatives; (c) is rightfully received by Recipient from a third party who is not, to Recipient's knowledge after reasonable inquiry, under a duty of confidentiality to Discloser with respect to such information; or (d) is independently developed by Recipient without access to or reference of the Discloser's Confidential Information. A Party may disclose Confidential Information to the extent it is compelled to do so by law if such Party provides reasonable prior written notice to the other Party (to the extent permitted) and uses reasonable efforts to limit disclosure and obtain confidential treatment.

7.4. Return or Destruction of Confidential Information. Upon termination or expiration of this Agreement, or upon Discloser's written request at any time, Recipient shall, at Discloser's option: (i) return to Discloser all Confidential Information and all copies thereof in any form or media; or (ii) destroy all Confidential Information and all copies thereof and certify such destruction in writing to Discloser within thirty (30) days. Notwithstanding the foregoing, Recipient may retain copies of Confidential Information: (a) as required by applicable law or regulation; (b) in archived backup systems created in the ordinary course of business; or (c) as necessary to defend against claims or enforce rights under this Agreement, provided that all such retained Confidential Information shall remain subject to the confidentiality obligations herein. The obligations of this **Section 7** (Confidentiality) shall survive termination or expiration of this Agreement for a period of five (5) years, except that obligations with respect to trade secrets shall survive indefinitely.

8. WARRANTIES AND DISCLAIMERS

8.1. On-Premises Software Warranty. Perforce warrants that, under normal authorized use, the On-Premises Software will perform substantially in accordance with the features and functionalities described in the Documentation for a period of forty-five (45) days following the date the Offering is initially made available to Customer and Perforce has used commercially reasonable efforts in accordance with industry standards to screen the On-Premises Software, and to the best of its knowledge, the On-Premises Software, as delivered, does not contain any Malicious Code. To the extent permissible under applicable law, as Perforce's entire liability and Customer's sole and exclusive remedy for a breach of this warranty, Perforce will, at its option (i) correct errors or provide work-arounds, (ii) replace defective On-Premises Software, or (iii) require Customer to return the defective On-Premises Software, terminate the Order Form for the non-conforming Offering, and refund fees paid for such Offering. The warranty for On-Premises Software expressly excludes: (a) evaluation Offerings; (b) On-Premises Software provided upon re-mix; (c) On-Premises Software that is designated as retired or not generally supported as of the date of the Order Form; (d) On-Premises Software made available under the Support Services terms set forth in any applicable Supplement; and (e) issues, problems, or defects arising from use of On-Premises Software not in accordance with the terms of this Agreement.

8.2. Cloud Services Warranty. Perforce warrants that, under normal authorized use, the Cloud Services will perform substantially in accordance with the features and functionalities described in the Documentation and Perforce has used commercially reasonable efforts in accordance with industry standards to screen the Cloud Services, and to the best of its knowledge, the Cloud Services does not contain any Malicious Code. To the extent permissible under applicable law, as Perforce's entire liability and Customer's sole and exclusive remedy for a breach of this warranty, at Perforce's option (i) Perforce will use commercially reasonable efforts to restore the non-conforming Cloud Services so that they comply with this warranty, or (ii) if such restoration would not be commercially reasonable, Perforce may terminate the Order for the non-conforming Offering and refund any prepaid fees for such Offering on a pro-rata basis for the remainder of the Term for that Offering. The warranty for Cloud Services excludes (a) evaluation Offerings and (b) issues, problems, or defects arising from Customer Content, Third Party Content, or use of Cloud Services not in accordance with the terms of this Agreement. Customer must notify Perforce in writing of any such breach within thirty (30) days of its discovery in order to receive such warranty remedies.

8.3. Professional Services Warranty. Perforce warrants that, under normal authorized use, the Professional Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards for a period of thirty (30) days following delivery of the applicable Deliverables or completion of the applicable Professional Services. To the extent permissible under applicable law, as Perforce's entire liability and Customer's sole and exclusive remedy for a breach of this warranty, Perforce will, at its option, re-perform the non-conforming Professional Services at no additional charge to Customer. The warranty for Professional Services expressly excludes: (a) evaluation Professional Services; (b) Professional Services provided upon re-mix; (c) Professional Services that are designated as retired or not generally supported as of the date of the Order Form or SOW; (d) Professional Services made available under the Support Services terms set forth in any applicable Supplement; and (e) issues, problems, or defects arising from (i) Customer Content, Customer data, or Customer materials, (ii) Customer's instructions, requirements, specifications, or requests, (iii) Customer's failure to provide necessary cooperation, access, or information, (iv) Customer-caused delays or changes to project scope, timeline, or requirements, or (v) use of Professional Services not in accordance with the terms of this Agreement or the applicable SOW. Customer must notify Perforce in writing of any such breach within thirty (30) days of delivery of the applicable Deliverables or completion of the applicable Professional Services in order to receive such warranty remedies.

8.4. No Open-Source Software Warranty. The Offerings may include Open-Source Software. Open-Source Software is governed solely by the applicable open-source licensing terms, if any, and is provided "AS IS." Perforce provides no warranty specifically related to any Open-Source Software or any applicable Open-Source Software licensing terms. The foregoing language is not intended to limit Perforce's warranty obligation for the Offerings set forth in this **Section 8.4 (No Open-Source Software Warranty).**

8.5. DISCLAIMERS. PERFORCE MAKES ONLY THE LIMITED WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, AND DISCLAIMS ALL OTHER WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. PERFORCE DOES NOT WARRANT OR OTHERWISE GUARANTEE THAT (I) REPORTED ERRORS WILL BE CORRECTED OR SUPPORT REQUESTS WILL BE RESOLVED TO MEET CUSTOMER'S NEEDS, (II) OFFERINGS, PROFESSIONAL SERVICES, DELIVERABLES, OR ANY THIRD PARTY CONTENT WILL BE UNINTERRUPTED, ERROR FREE, FAIL-SAFE, FAULT-TOLERANT, OR FREE OF HARMFUL COMPONENTS, (III) ANY CONTENT, INCLUDING CUSTOMER CONTENT AND THIRD PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED, OR (IV) PROFESSIONAL SERVICES OR DELIVERABLES WILL MEET CUSTOMER'S REQUIREMENTS, ACHIEVE PARTICULAR RESULTS, OR BE COMPATIBLE WITH ANY PARTICULAR HARDWARE, SOFTWARE, OR ENVIRONMENT. REPRESENTATIONS ABOUT OFFERINGS, PROFESSIONAL SERVICES, DELIVERABLES, OR FEATURES OR FUNCTIONALITY IN ANY COMMUNICATION WITH CUSTOMER CONSTITUTE TECHNICAL INFORMATION, NOT A WARRANTY OR GUARANTEE. CUSTOMER IS RESPONSIBLE FOR ASSESSING THE SUITABILITY OF EACH OFFERING, PROFESSIONAL SERVICE, AND DELIVERABLE FOR CUSTOMER'S INTENDED USE, SELECTING THE OFFERING NECESSARY TO ACHIEVE CUSTOMER'S INTENDED RESULTS, AND FOR THE USE OF OFFERINGS, PROFESSIONAL SERVICES, AND DELIVERABLES. BY USING AN OFFERING, CUSTOMER AGREES THAT SUCH OFFERING MEETS CUSTOMER'S REQUIREMENTS TO ENABLE COMPLIANCE WITH APPLICABLE LAWS. CUSTOMER WILL OBTAIN, AT ITS OWN EXPENSE, ANY RIGHTS, CONSENTS, AND PERMITS FROM VENDORS OF SOFTWARE AND SERVICES USED BY CUSTOMER IN CONNECTION WITH ANY OFFERING WHICH ARE REQUIRED FOR SUCH USE. CUSTOMER AGREES THAT ORDER FORMS ARE NOT CONTINGENT ON ANY FUTURE FEATURES OR FUNCTIONALITY OF OFFERINGS. PERFORCE DOES NOT CONTROL CUSTOMER'S PROCESSES OR THE CREATION, VALIDATION, SALE, OR USE OF CUSTOMER'S (OR ANY CLIENT OF CUSTOMER'S) PRODUCTS OR SERVICES AND WILL NOT BE LIABLE FOR ANY CLAIM OR DEMAND MADE AGAINST CUSTOMER BY ANY THIRD PARTY, EXCEPT FOR

PERFORCE'S OBLIGATIONS TO INDEMNIFY CUSTOMER AGAINST INFRINGEMENT CLAIMS AS EXPRESSLY SET FORTH IN THIS AGREEMENT. TO THE EXTENT THE FOREGOING DISCLAIMER IS EXPRESSLY PROHIBITED BY LAW, ANY AVAILABLE WARRANTY SHALL BE LIMITED TO THIRTY (30) DAYS AND TO THE SERVICE REMEDIES PROVIDED BY PERFORCE IN THIS **SECTION 8.5** (Disclaimers).

9. INDEMNITY

9.1. Perforce will indemnify and defend Customer from and against any and all losses, liabilities, and claims (including reasonable attorneys' fees) arising out of: (i) any claim by a third party alleging that the Offering or Deliverables infringe or misappropriate the intellectual property rights of that third party; or (ii) death, personal injury, or personal property damage caused by Perforce's gross negligence, willful misconduct, or fraud. Notwithstanding the foregoing, Perforce shall not be obligated to indemnify Customer if any Fees remain unpaid after they become due or where such infringement or misappropriation claim arises from: (a) the Customer Content; (b) Customer's or User's misuse of the Offering or Deliverables, including any use of the Offering or Deliverables by unauthorized users or after the termination of the Agreement; (c) Customer's or User's use of the Offering or Deliverables in combination with any products, services, or technology not provided by Perforce; (d) Customer Content, Customer-provided materials, data, specifications, or requirements incorporated into Deliverables at Customer's direction; (e) modifications to Deliverables made by Customer or third parties; or (f) Customer's specific instructions, requirements, or design decisions that caused the alleged infringement. If a claim of infringement or misappropriation is made, Perforce may, in its sole discretion: (i) modify the Offering or Deliverables so that it becomes non-infringing; (ii) obtain a license permitting continued use of the Offering or Deliverables; or (iii) terminate the Agreement with no liability to Customer, other than Perforce's obligation to indemnify hereunder, and return the unused portion of any prepaid Fees. The aforesaid remedies are the Customer's sole and exclusive remedies for any third-party claims of infringement or misappropriation of intellectual property rights relating to the Offering or Deliverables.

9.2. Customer will indemnify and defend Perforce from and against any and all losses, liabilities, and claims (including reasonable attorneys' fees) arising out of: (i) any breach by Customer of Section 3.3 (General Use Restrictions); (ii) any misappropriation or infringement of Perforce's Intellectual Property Rights; or (iii) Customer's use of Perforce Intellectual Property in a manner inconsistent with this Agreement.

9.3. The party seeking indemnification ("Indemnitee") shall provide the indemnifying party ("Indemnitor") with prompt written notice upon becoming aware of any claim subject to indemnification hereunder and shall provide reasonable cooperation to Indemnitor in the defense or investigation of any claim, suit, or proceeding. Indemnitor, at its option, will have sole control of such defense, provided that Indemnitee is entitled to participate in its own defense at its sole expense. Indemnitor shall not enter into any settlement or compromise of any such claim, suit, or proceeding without the Indemnitee's prior written consent, except that Indemnitor may, without such consent, enter into any settlement of a claim that resolves the claim without liability to Indemnitee and without impairment to any of Indemnitee's rights or requiring Indemnitee to make any admission of liability.

10. LIMITATIONS AND EXCLUSIONS OF LIABILITY

10.1. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY FOR: (A) DEATH OR PERSONAL INJURY CAUSED BY ITS GROSS NEGLIGENCE; (B) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (C) ANY OTHER LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED BY APPLICABLE LAW. EACH PARTY AND ITS SUPPLIERS SHALL NOT BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE USE OR INABILITY TO USE THE OFFERING (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY, LOSS OR INACCURACY OF DATA, RECORDS OR INFORMATION, COST(S) OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, AND ANY FAILURE OF DELIVERY OF THE SERVICE), EVEN IF THE OTHER PARTY HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES.

10.2. EXCEPT FOR EACH PARTY'S INDEMNITY AND DEFENSE OBLIGATIONS IN SECTION 8 (INDEMNITY) OF THIS AGREEMENT, A PARTY'S VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR CUSTOMER'S PAYMENT OBLIGATIONS, EACH PARTY'S CUMULATIVE MAXIMUM LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT PAID BY CUSTOMER UNDER THE ORDER FORM GOVERNING THE SPECIFIC OFFERING THAT IS THE SUBJECT OF OR MOST DIRECTLY RELATED TO THE CLAIM WITHIN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY.

10.3. NOTWITHSTANDING THE FOREGOING, FOR A BREACH OF EITHER PARTY'S OBLIGATIONS UNDER SECTION 7 (CONFIDENTIALITY) OF THIS AGREEMENT, SUCH PARTY'S MAXIMUM AGGREGATE LIABILITY SHALL BE INCREASED TO THREE TIMES (3X) THE FEES PAID BY CUSTOMER TO PERFORCE UNDER THE ORDER FORM GOVERNING THE SPECIFIC OFFERING THAT IS THE SUBJECT OF OR MOST DIRECTLY RELATED TO THE CLAIM WITHIN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY. NEITHER PARTY MAY COMMENCE ANY ACTION OR PROCEEDING UNDER THE AGREEMENT MORE THAN TWO YEARS AFTER THE OCCURRENCE OF THE APPLICABLE CAUSE OF ACTION.

11. TERM AND TERMINATION

11.1. **Agreement Term.** Unless terminated earlier by a Party in accordance with this **Section 11** (Term and Termination), the term of this Agreement shall continue for so long as any Order Form remains in effect (the "Term") and shall continue for its full duration unless earlier terminated by a Party in accordance with this **Section 11** (Term and Termination).

11.2. **Termination for Cause.** In addition to any other rights and remedies that may be available, either Party may terminate this Agreement for a material breach of any provision of this Agreement by the other Party if: (a) such material breach remains uncured for thirty (30) days after receipt of written notice of such breach from the non-breaching Party; (b) the other Party becomes subject to appointment of a trustee or receiver for all or any part of its assets, becomes insolvent or bankrupt, or makes any assignment for the benefit of its creditors; or (c) the other Party ceases to carry on business.

11.3. **Effect of Termination.** Upon expiration or termination of this Agreement: (a) Customer shall immediately cease using the Offering; (b) all Order Forms are simultaneously terminated; and (c) in connection with certain aspects of the Offering that feature an export function, Customer may export the Customer Content by using the export feature within the Offering for a period of three (3) months from termination, after which Perforce shall have no obligation to maintain or provide any Customer Content. Any terms that by their nature survive termination or expiration of this Agreement will survive (including, but not limited to, **Section 1** (Definitions), **Section 2** (Orders and Fees), **Section 3** (Use of Offering), **Section 6** (Intellectual Property), **Section 7** (Confidentiality), **Section 8** (Warranties and Disclaimers), **Section 9** (Indemnity), **Section 10** (Limitations and Exclusions of Liability), **Section 11** (Term and Termination), and **Section 12** (General Provisions)).

11.4. **Suspension.** Perforce may suspend or limit Customer's or any authorized user's access to and use of the Offerings, in whole or in part, immediately: (i) if Perforce reasonably determines that the use of the Offering poses a security risk to the Offering, Perforce, or any third party, or subjects Perforce or any third party to liability; (ii) if Customer materially breaches this Agreement and the Customer fails to cure such breach or provide a written cure plan acceptable to Perforce within ten (10) days of being notified of such breach; (iii) Customer, or any authorized user of Customer, violates Perforce's [Acceptable Use Policy](#); or (iv) upon the occurrence of any of the circumstances that give Perforce the right to immediate termination under **Section 11** (Term and Termination) of this Agreement. Suspension or limitation will not limit any other rights available to Perforce under this Agreement, will not relieve Customer of its obligation to pay fees, and will be lifted when the reason for such suspension or limitation no longer exists.

12. GENERAL PROVISIONS

12.1. **Feedback.** Customer may from time to time voluntarily provide Perforce with suggestions, comments, ideas for improvements, bug reports, or other input relating to the Offerings (collectively, "Feedback"). Customer hereby grants Perforce a perpetual, irrevocable, worldwide, royalty-free license to use, modify, incorporate, and commercialize any Feedback for any purpose without obligation of attribution, compensation, or confidentiality to Customer.

12.2. **Relationship.** Each Party shall be and act as an independent contractor (and not as the agent or representative of the other Party) in the performance of its respective obligations under the Agreement.

12.3. **Compliance with Laws.** Each Party, on behalf of itself and on behalf of its Affiliates, shall comply with all applicable laws and regulations, including export control laws and embargoes such as the Export Administration Regulations ("EAR"), the regulations administered by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") administered by the U.S. Department of Commerce's Bureau of Industry and Security ("BIS"), and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State. Each Party represents and warrants that it, its Affiliates, and its and their authorized users, officers, and directors are not persons or entities with whom the other Party is prohibited from dealing (including provision or receipt of software, products, or services) under any applicable law,

regulation, or executive order, and shall promptly notify the other Party in writing if this representation becomes inaccurate. Without limiting the foregoing, Customer represents that it, its Affiliates, and its and their authorized users are not, and do not act on behalf of, (i) any person or entity that is a citizen, national, or resident of, or controlled by the government of, any country to which the United States has prohibited export, reexport, or transfer of the Software or related technology, (ii) any person or entity listed on OFAC's Specifically Designated Nationals and Blocked Persons List, Consolidated Sanctions List, or BIS's Denied Persons List, Entity List, or Unverified List, or (iii) any entity 50% or more owned by persons or entities on the Entity List, Military End User List, or SDN List, and shall immediately notify Perforce in writing if this representation becomes inaccurate.

12.4. Federal Government End Use Provisions. Perforce may provide the Software for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Software include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software), and the Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Perforce to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights.

12.5. Equitable Relief. Either Party may apply to a court of competent jurisdiction for injunctive or other appropriate equitable relief restraining any threatened or actual breach of this Agreement. Each Party waives any requirement that the other Party post any bond or other security in the event any injunctive or equitable relief is sought by or awarded to enforce any provision of this Agreement.

12.6. Force Majeure. Neither Party will be liable for delay or failure to perform any obligations under this Agreement (except with respect to any payment obligations) due to an unforeseen event beyond a Party's reasonable control, such as a strike, blockade, war, pandemic, act of terrorism, riot, third-party Internet or utility failure, refusal of government license, or natural disaster, where the affected Party takes reasonable and customary measures to avoid or mitigate such event's effects (a "Force Majeure Event"). The delayed Party will promptly notify the other Party in writing of any such event. If a Force Majeure materially adversely affects the Offering for fifteen (15) or more consecutive days, either Party may terminate the affected Order Form(s) upon delivery of written notice to the other Party and Perforce will refund to Customer any prepaid, unused Fees for the terminated portion of the Term; provided, however, that this Section 12.6 (Force Majeure) does not limit Customer's obligations to pay any Fees due and owing.

12.7. Information Obligations; Verification. Customer will provide information or other materials that Perforce reasonably requests in writing to verify Customer's compliance with this Agreement. Perforce may conduct such verification no more than once in any consecutive twelve (12) month period. Verifications of Customer's usage of installed On-Premises Software may be conducted as self-audits by Customer using the inventory tools provided by Perforce. If Customer is unable or unwilling to use the tools in self-service, Perforce or its authorized agents may access Customer's facilities to perform the verification. Any such verification process will be: (a) restricted in scope, documentation, manner, and duration to that which is reasonably necessary to achieve its purpose; and (b) conducted during regular business hours at Customer's facilities if a remote verification process is not possible. Perforce will not unreasonably interfere with Customer's business activities during such verification process. Customer will be liable for promptly remedying any underpayments revealed during the verification process at the then-current price per authorized user. If the result of the verification process reveals a failure to materially comply with terms and conditions of this Agreement, and/or if the audit reveals an underpayment of at least ten percent (10%) or more that the Customer is currently paying, Customer will also be liable for the costs of the verification process in addition to any unpaid fees, or other damages, and any other remedies available to Perforce in this Agreement.

12.8. Notices. All notices required or permitted under this Agreement shall be in writing and shall be deemed properly given if delivered personally, sent by certified or registered mail (postage prepaid, return receipt requested), sent by nationally recognized overnight courier service, or sent by email to the addresses specified in applicable Order Form. Additionally, if an Offering includes account portal or administrative interface capabilities, Perforce may also provide notice to Customer by posting notifications within such systems. Customer shall be responsible for regularly monitoring any such account portals or administrative interfaces and for providing current contact information to Perforce. Notices shall be deemed received: (a) when delivered personally; (b) three (3) business days after being sent by certified or registered mail; (c) one (1) business day after being sent by overnight courier; (d) when sent by email (unless the sender receives an automated message that the email was not delivered); or (e) three (3) days after posting in an account portal or administrative interface. If Customer's receipt of a notice fails because of technical issues related to equipment or

services under Customer's control, notices will be deemed delivered according to the timeframes above. Notwithstanding the foregoing, notices regarding claims or disputes will always be sent to the Party's address as specified in the applicable Order Form. A copy of all notices to Perforce shall be sent to legalnotices@perforce.com. A Party may change its address for receipt of notice by delivery of written notice using one of the approved methods described in this **Section 12.8 (Notices)** to the other Party.

12.9. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Delaware, without regard to conflicts of laws principles. In the event of any controversy or claim arising out of or relating to this Agreement, or its breach or interpretation, the Parties shall submit to the exclusive jurisdiction of and venue in the state or federal courts located in Delaware. Each Party waives all defenses of lack of personal jurisdiction and inconvenient forum.

12.10. Waiver and Severability. A Party's decision not to enforce any term or condition of this Agreement on any occasion shall not constitute a waiver of that Party's right to enforce such term or condition in the future. If a court of competent jurisdiction determines that any provision of this Agreement is invalid, illegal, or unenforceable, that determination shall not affect the validity or enforceability of any other provision, and the Parties shall negotiate in good faith to replace the affected provision with an enforceable provision that achieves the Parties' original commercial intent to the greatest extent permitted by law. The Parties acknowledge that this Agreement may be executed and delivered by electronic signature or accepted through Perforce's designated electronic contracting system, and agree that such execution or acceptance shall be legally binding and enforceable to the same extent as a handwritten signature.

12.11. Assignment. Neither party may assign the Agreement or any of its rights or obligations thereunder without the prior written consent of the other Party, which such consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, either Party may assign this Agreement (a) to an Affiliate, (b) in connection with the sale of all or substantially all of its equity or assets, or (c) to a successor by merger (in all cases, the assignee may not be a direct competitor of the non-assigning Party). Any purported assignment in violation of this **Section 12.11 (Assignment)** shall be void. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns.

12.12. Modification. This Agreement may only be modified by a written amendment signed by authorized representatives of both Parties, or through an electronic amendment process specifically designated by Perforce and accepted by Customer through such electronic system. No other form of communication, including but not limited to emails, phone calls, purchase orders, or other correspondence, shall constitute a modification of this Agreement. Order Forms may be executed separately and shall be governed by the terms herein, but the execution of an Order Form shall not modify the terms of this Agreement unless such Order Form contains specific amendment language expressly referencing and amending particular provisions of this Agreement. Any purported modification that does not comply with this **Section 12.12 (Modification)** shall be null and void and of no force or effect. Notwithstanding the foregoing, Perforce may modify any Supplement referenced herein by posting updated Supplements at the location specified in this Agreement, provided that any such modifications to Supplements shall only apply to new Order Forms executed after the effective date of such modification.

12.13. Entire Agreement. This Agreement constitutes the full and complete agreement between the Parties with respect to the subject matter thereof and supersedes any previous or contemporaneous agreements or communications, whether written or verbal, relating to such subject matter. The reference to a document that refers to another document will be deemed to also include such other document, unless otherwise stated therein. This Agreement may not be varied except as set out in Supplements or otherwise mutually agreed to in writing by the Parties. No other terms and conditions will apply. Customer may use purchase orders or similar documents only as proof of acceptance of each Order Form and for convenience only, the terms of any purchase order or similar Customer document are excluded and such terms are hereby rejected and will have no force or effect, will not apply to any Order Form, and will not supplement or modify this Agreement irrespective of any language to the contrary in such document.

EXHIBIT A**LISTING OF THE SUPPLEMENTS¹**

1. Perforce ALM Supplemental Terms
2. Perforce BlazeMeter Supplemental Terms
3. Perforce Delphix Supplemental Terms
4. Perforce Information Security Supplemental Terms
5. Perforce IPLM Supplemental Terms
6. Perforce JRebel and XRebel Supplemental Terms
7. Perforce Klocwork Supplemental Terms
8. Perforce P4 Supplemental Terms
9. Perforce P4 Plan Supplemental Terms
10. Perforce Perfecto Supplemental Terms
11. Perforce Puppet Enterprise and Puppet Enterprise Advanced Supplemental Terms
12. Perforce QAC Supplemental Terms

¹*The list of the Supplemental Terms available for sale by Perforce may be updated from time to time without notice to Customer. Please check the [Perforce Legal website](#) for the most up to date listing.*