

CONTRACT TERMS FOR THE CUSTOMER OF XANADU a.s. - HPE SUPPORT

- 1. Contracting parties.** These Terms constitute an agreement (“**Agreement**”) governing the purchase of Hewlett Packard Enterprise (“**HPE**”) support services between **XANADU** (“**XANADU**”), an HPE contract partner, and a customer (“**Customer**”) who is by the end user of the Support Services Customer acknowledges and agrees that the terms and conditions under which the Support Services delivered under this Agreement are provided are determined by HPE and XANADU has no control over them.
- 2. Orders.** “**Order**” means the accepted order including any supporting materials that the parties attach or link to (“**supporting materials**”). Supporting materials may include (for example) lists of supported products, hardware or software specifications, descriptions of standard or contracted services, data sheets and their annexes and specifications of works (SPs), issued warranties and service contracts, and may be made available to the customer in hard copy.
- 3. Scope and submission of the Order.** These conditions can be used by the customer for the purposes of a separate Order or as a framework for submitting multiple Orders. In addition, these terms may be used globally by “**branches**” of the parties, i.e. by all entities that are controlled by, controlled by, or jointly controlled by the affected party. The parties may confirm their agreement to these terms and conditions by affixing their signature in the space indicated at the end of this document or by issuing an order for performance under XANADU's offer referring to these Terms. Branches shall enter into this Agreement pursuant to these Terms by submitting their Orders, which shall specify delivery of the Service in the same state in which the **XANADU** branch accepts the Order, and shall refer to these Terms and specify any additional terms or amendments to ensure compliance with local laws or business practices.
- 4. Arrangement of the order.** The Customer may submit Orders to XANADU by post, fax or e-mail. Where applicable, Orders will indicate a delivery date. If the customer extends the service delivery date based on an existing Order by more than ninety (90) days, this Order will be considered a new Order.
- 5. Prices and Fees.** Valid prices will be set in a written or electronic offer by XANADU. Prices are exclusive of taxes, levies and charges (including installation, shipping and handling) unless expressly stated otherwise. If withholding tax is required by law, please contact XANADU's Ordering representative to discuss the appropriate procedure.
- 6. Invoices and Payments.** Customer agrees to pay all invoiced amounts within twenty-one (21) days of XANADU's issuance of the invoice. The XANADU company can either suspend (interrupt) and/or completely cancel the fulfillment of processed Orders or provided services in the event that the customer is in arrears with the payment of any amount invoiced to him by the XANADU company, or part thereof. This does not in any way affect the right of XANADU to terminate the contractual relationship established by this contract.
- 7. Support Services.** XANADU's support services will be described in the applicable support material, which will include a description of XANADU's offering, eligibility requirements, service limitations and customer obligations, as well as customer's supported systems. Unless otherwise expressly stated in writing in the support material, the minimum duration of the ordered support service is twelve (12) months.

8. **Eligibility.** XANADU's services, support and warranty obligations will not apply to claims arising from:
1. Improper use, preparation of the workplace or conditions of the workplace or environment or other non-compliance with valid support material;
 2. modifications or improper maintenance of the system or failure to perform calibration by XANADU or calibration approved by XANADU;
 3. defects or functional limitations of any software not supplied by XANADU or product affecting systems for which support or services are provided to XANADU;
 4. malware (eg virus, worm, etc.) not specified by HPE; or
 5. damage due to mishandling, negligence, accident, fire or water damage, electrical failure, transportation by the customer or other causes beyond XANADU's control.
9. **Cooperation.** XANADU's ability to deliver the Services will depend on the reasonable and timely cooperation of the Customer and the accuracy and completeness of all data received from the Customer that is necessary for the delivery of the Services.
10. **Change Requests.** Each party agrees to appoint its representative for the purposes of the project to serve as the main contact person for the purpose of managing the delivery of the services and to discuss any matters that may arise. Requests to change the scope of services or supplies will require an amendment to the Purchase Order signed by both parties.
11. **Performance of Services.** When providing services, generally accepted business practices and standards will be followed. The Customer agrees to promptly notify XANADU of any problems with the Services and to re-provide any Services that do not meet these standards.
12. **Intellectual Property Rights.** Based on this agreement, there is no transfer of ownership of any intellectual property. The customer's entitlement to any intellectual property is always governed by the conditions and rules set forth in the relevant contractual documents (contract terms/license terms, etc.) of HPE as the executor of the intellectual property rights to the HPE brand product or service supplied under this contract. Customer grants to XANADU a non-exclusive, worldwide and royalty-free right and license to all intellectual property that XANADU and/or HPE and its designees require for the purpose of providing the ordered services. The authorization according to the preceding sentence, XANADU is authorized to provide in whole or in part, for a fee or free of charge, to HPE and all entities that form with HPE or will form a business group with HPE at any time in the future according to the relevant legal regulation that applies to this.
13. **Infringement of Intellectual Property Rights.** The rights and claims of the customer due to the fact that the products or services of the HPE brand supplied under this contract infringe the intellectual property rights of a third party are governed by the conditions and rules set out in the relevant contractual documents (contractual conditions/licensing conditions, etc.) of HPE as the executor of the intellectual property rights ownership of an HPE branded product or service. XANADU hereby notifies the Customer that HPE will indemnify the Customer against any claims related to the suspicion that HPE branded products or services supplied under this Agreement infringe the intellectual property rights of a third party. Therefore, XANADU relies on Customer to promptly notify XANADU and/or HPE directly of such claim and to cooperate with the defense. Customer acknowledges and agrees that HPE may modify a product or service that is delivered under this Agreement so that it does not infringe intellectual property rights and that the product or service is substantially identical to the original product or service; or can

arrange for the relevant license to be obtained. In the event that these alternatives are not available, the customer will be paid in the first year as compensation the amount paid for the product in question, or at the end of that period its balance price, or (in the case of Support Services) the balance of any prepaid amount or (in the case of Professional Services) the amount paid. Neither XANADU nor HPE is responsible for claims arising from any unauthorized use of products or services.

14. **Confidentiality.** Information exchanged under this Agreement will be treated as confidential if marked as such or if the circumstances of its disclosure could reasonably indicate that it should be treated as such. Confidential Information may only be used for the purposes of fulfilling obligations or exercising rights under this Agreement and shared with employees, agents or contractors who must be familiar with it for that purpose. Confidential Information will be protected with a reasonable degree of care to prevent unauthorized use or disclosure for a period of 3 years from the date of receipt or (if longer) for as long as the information remains confidential. These obligations do not apply to information that: i) was known or became known to the receiving party without an obligation of confidentiality; ii) were independently developed by the receiving party; or iii) if disclosure is required by law or governmental authority.
15. **Personal Information.** Each party will comply with its respective obligations arising under applicable data protection legislation. XANADU does not intend to gain access to Customer's Personally Identifiable Information ("PII") while providing the Services. If XANADU gains access to Customer's OII stored on Customer's system or device, such access is likely to be inadvertent and Customer will remain the custodian of such PII. XANADU will use any PII to which it has access solely for the purpose of delivering the ordered services.
16. **Compliance with International Trade Rules.** The services provided on the basis of these conditions are intended for the internal use of the customer and not for their further commercialization. XANADU may suspend its performance under this Agreement to the extent required by the laws applicable to either party, and also in the event that the provision of services is suspended by HPE for any reason.
17. **Limitation of Damages and Limitations.** The customer's right to compensation for damage caused in connection with this Agreement, for which XANADU is responsible, is limited only to XANADU's obligation to pay direct damage (that is, damage that is an immediate and usually expected consequence of the damage event), up to the amount of 1,000,000 CZK or up to the price paid by the customer according to the order, whichever amount is higher. Neither Customer nor XANADU shall be liable for lost revenue or profit, costs of downtime, loss or corruption of data or any indirect, special or consequential damages or costs. Neither party shall limit its liability for the unauthorized use of intellectual property, death or personal injury caused intentionally or negligently, or any liability that cannot be excluded or limited by applicable law.
18. **Disputes.** In the event that Customer is dissatisfied with any services purchased under these Terms and does not agree with the resolution proposed by XANADU, the parties agree that they will try to resolve the matter by agreement for the purpose of an amicable solution, without prejudice to the right to seek a legal remedy at a later time.
19. **Force majeure.** Neither party shall be liable for any delay in performance or failure to perform due to reasons beyond their reasonable control, except for payment obligations.
20. **Termination.** Either party may terminate this Agreement upon written notice in the event that the other

party fails to perform any material breach and cure such breach within a reasonable period of time after being notified of such breach in writing with particulars thereof. If either party becomes insolvent, unable to meet its obligations as they fall due, files for bankruptcy or is placed under bankruptcy or receivership or property distribution, the other party may terminate this Agreement and cancel any outstanding obligations. All terms in the contract, the validity of which by their nature continues even after the termination or expiration of this contract, will remain in effect until fulfilled and will apply to the respective legal successors and permitted transferees of both parties.

21. **Prohibition of assignment and set-off:** The customer is not entitled to assign or set-off any of his claim, even a part of the claim, to XANADU, which arises on the basis of and/or in connection with this contract, or his contractual position under this contract (assignment of the contract), forward to a third person.

22. **Set-off:** The Customer is not entitled to set-off any of its monetary claims against XANADU, even part of its claims, including claims obtained by assignment, against any of the Customer's monetary claims against XANADU. XANADU is entitled to unilaterally set off any claims against the customer arising on the basis of this Agreement against the customer's due or unpaid claims.

23. **General provisions.** This Agreement constitutes the entire agreement with respect to its subject matter and supersedes any prior communications or understandings that may exist. Changes to this Agreement will only be made in the form of a written amendment signed by both parties. The contract is governed exclusively by Czech law, in particular by the relevant provisions of the Civil Code, as amended. The contracting parties have expressly agreed to exclude the application of the UN Convention on Contracts for the International Sale of Goods negotiated in Vienna on 11 April 1980 (published under No. 160/1991 Coll.) to this contract and the legal relationships based on it. All disputes arising from this contract and in connection with it will be decided exclusively by the general courts of the Czech Republic.