

DYNATRACE PURCHASE ORDER TERMS AND CONDITIONS

1. Definitions

- (a) "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with a party.
- (b) "Dynatrace" means the Dynatrace entity identified in the "ship to" section of the Purchase Order.
- (c) "Dynatrace Policies" means, collectively, the Supplier Code of Conduct, Supplier Security Policy, and Supplier Artificial Intelligence Policy available at: <https://www.dynatrace.com/company/trust-center/suppliers/>.
- (d) "PO Terms" means Sections 1-24 hereof.
- (e) "Products" means any goods, software, SaaS, and other items supplied or to be supplied under the Purchase Order.
- (f) "Services" means any services provided or to be provided in connection with the Purchase Order, including without limitation technical support and/or maintenance of any Products.
- (g) "Supplier" means the individual or entity specified as the supplier, vendor, or provider in the Purchase Order.
- (h) "Supplier Offerings" means all Products and Services.

2. Applicability

The Purchase Order, these PO Terms, and any attachments and exhibits, specifications, drawings, notes, instructions and other information approved by Dynatrace, whether physically attached or incorporated by reference (collectively the "PO"), constitutes the entire agreement between Dynatrace and Supplier. These PO Terms govern unless Dynatrace or its Affiliates have an active, negotiated framework agreement ("MSA") with Supplier or its Affiliates that governs the purchase. If an MSA exists, it will take precedence, and the rest of these PO Terms will not apply to the applicable Purchase Order. The Purchase Order is not a "firm offer" and may be revoked at any time before acceptance. Supplier may use standard order forms and invoices to administer the Supplier Offerings, but use of such forms is for Supplier's convenience only and does not alter the PO. DYNATRACE IS NOT BOUND BY AND SPECIFICALLY OBJECTS TO ANY TERMS OR CONDITIONS THAT ARE DIFFERENT FROM, INCONSISTENT WITH, OR IN ADDITION TO THE PO, UNLESS OTHERWISE AGREED IN WRITING AND SIGNED BY DYNATRACE WITH A SPECIFIC REFERENCE TO THE TERM OR CONDITION THAT IS INTENDED TO BE MODIFIED.

3. Price and Payment

Unless otherwise expressly stated in the Purchase Order, the price specified in the Purchase Order includes all applicable taxes, freight, packaging, insurance, handling, permits, approvals, licenses and all other charges. Prices are not subject to increases or additional charges. Dynatrace will receive the benefit of any general reduction in Supplier's prices. Discount periods, as applicable, begin when Dynatrace receives or accepts the shipment or the invoice, whichever is later. Supplier will separately invoice Dynatrace (a) for each delivery of Supplier Offerings, (b) in accordance with any schedule agreed to by Dynatrace, and (c) for each milestone payment agreed to by Dynatrace. If no milestones or schedules have been agreed for Services, Supplier will invoice at the completion of all Services under the PO. Supplier's invoice will reference only the relevant Purchase Order and the amounts due thereunder. Unless otherwise stated in the Purchase Order, Dynatrace shall pay valid, undisputed invoices Net 60 days after receipt.

4. Taxes

Each party is responsible for identifying, paying, and reporting all taxes and governmental fees related to the PO. Dynatrace will pay, applicable sales taxes, VAT, GST, or similar transaction taxes that Supplier must pay to authorities. Supplier's invoice must state these taxes separately and comply with all tax invoicing and filing requirements. Dynatrace may withhold payment until it receives compliant invoices. Dynatrace may provide an exemption certificate to avoid certain taxes, and, if provided, Supplier will not charge those taxes. Dynatrace may deduct or withhold any legally required taxes from payments to the Supplier, and such deductions will be considered full payment. Supplier will provide any necessary forms or documents for Dynatrace to meet tax reporting or withholding obligations.

5. Performance

Time is of the essence in Supplier's performance hereunder. Supplier will provide the Supplier Offerings in accordance with the schedule specified in the Purchase Order or as otherwise agreed in writing by the parties. Supplier will deliver all Products to the "ship to" address by the specified "deliver by" date indicated on the Purchase Order. For Products to be shipped to Dynatrace, Supplier will properly package such Products to prevent damage and theft prior to receipt. Title to any Supplier Offerings transferred to Dynatrace under the Purchase Order will pass to Dynatrace upon acceptance. Upon Dynatrace's request, Supplier will promptly deliver all work product, data, reports, summaries, estimates, and other materials collected or created in connection with the Supplier Offerings, and Supplier will not be paid for any outstanding invoices until these items are delivered to Dynatrace.

6. Acceptance, Rejection and other Remedies

All specifications, requirements, and descriptions related to the Supplier Offerings are incorporated in these PO Terms by reference. Dynatrace may inspect the Supplier Offerings at any time, and Supplier will provide reasonable access for such inspection prior to shipment. No Supplier Offerings will be deemed accepted before Dynatrace's final inspection after receipt. Dynatrace's inspection, acceptance, payment, or failure to inspect or discover a defect, does not waive or limit any warranty, relieve Supplier of any obligations, or impair Dynatrace's rights or remedies at law or in equity. If the Supplier Offerings do not meet the PO requirements, Dynatrace may reject within a reasonable time after delivery. In such cases, Dynatrace may, at Supplier's expense: (a) retain the Supplier Offerings for correction by Dynatrace or others; (b) return them for a refund, correction, or replacement; or (c) procure replacements from a third party.

7. Representations and Warranties

Supplier represents and warrants that: (a) the Supplier Offerings are free from defects in design, materials, workmanship and title; (b) the Supplier Offerings do not violate, misappropriate or infringe any patent, trademark, copyright or other right of any third party; (c) the Supplier Offerings conform to the PO and the applicable drawings, specifications, samples, and descriptions provided to Dynatrace; (d) any Services will be provided in a workmanlike manner consistent with best industry standards; (e) Supplier, its Personnel, and the Supplier

Offerings at all times comply with all applicable laws, rules, and regulations; (f) Supplier and its Personnel hold and will fully comply with all required licenses, permits, consents, permissions, and approvals related to the Supplier Offerings; and (g) Supplier and its Personnel will comply with the Dynatrace Policies. If the Supplier Offerings are or contain software or SaaS, Supplier further represents and warrants that: (a) the software does not and will not contain any time bomb or similar mechanisms that could interfere with Dynatrace's or its Affiliates' exercise of their rights hereunder, (b) the software does not and will not contain any viruses, malware, ransomware, trojan horses, or other harmful code; and (c) the software is not subject to any license or other terms that require Dynatrace or its Affiliates to release any software or code as a consequence of Dynatrace using the applicable software. Supplier further represents and warrants that Supplier and its financial institution(s) are not subject to sanctions or otherwise designated on any list of prohibited or restricted parties or owned or controlled by such a party, including but not limited to the lists maintained by the United Nations Security Council, the United States, the European Union or its member states, or other applicable governmental authority.

8. Cancellation and Modifications

Dynatrace may, upon written notice to Supplier and without charge or liability, terminate or modify all or any portion of the PO prior to shipment of any Products or Supplier's commencement of performing any Services. Dynatrace may terminate or modify the PO for any Products after shipment and prior to Dynatrace's acceptance of such Products, paying only the shipping expenses (if any) for returning such Products to Supplier's shipping location and without further charge or liability. If Dynatrace terminates the PO at any other time, then (a) for Services, Dynatrace is only liable to pay for Services performed prior to cancellation (except that if the specified fees are a fixed amount, Dynatrace will pay a pro rata fee to the extent the Services are complete); and (b) for Products which constitute software or SaaS, Dynatrace is only liable to pay for such Products up to the date of termination and Supplier shall promptly refund to Dynatrace any unused prepaid fees for the terminated Products. Upon cancellation or termination, Supplier will promptly deliver to Dynatrace all deliverables, work product and other items, and all data, reports, summaries, estimates, and any other information or materials as Supplier may have collected or created in performing Services, including without limitation any Dynatrace data. Supplier is not entitled to payment under any outstanding invoice until delivery of the foregoing items to Dynatrace is complete.

9. Import/Export Compliance

Supplier will deliver any cross-border sale of Products to Dynatrace with all duties paid (DDP Incoterms 2010), unless otherwise agreed by Dynatrace. Supplier will handle all import and export paperwork and will not list Dynatrace on customs documents unless legally required, in which case Supplier will notify Dynatrace in advance and comply with any legal alternatives proposed by Dynatrace. Supplier is directly responsible for ensuring that all cross-border sales comply with all export and import regulations. Export/import documents must itemize and state the value of each hardware, software, setup, and non-dutiable service separately. If Dynatrace returns products, they will be sent from Dynatrace's address, and Supplier will handle all import/export paperwork and compliance. Supplier will not charge Dynatrace for any recoverable duties and taxes. Supplier will not export, re-export, transmit, or cause to be exported, re-exported or transmitted, any commodities, software or technology to any country, individual, corporation, organization, or entity to which such export, re-export, or transmission is restricted or prohibited, including those under sanctions or embargoes administered by the United Nations, United States, the European Union, or any other applicable government authority

10. Insurance

Supplier will maintain adequate insurance, including at, a minimum, a Commercial General Liability policy, providing coverage for liabilities to third parties for bodily injury (personal injury) and damage to property with limits of insurance not less than the equivalent of \$5,000,000 USD each occurrence and \$5,000,000 annual aggregate (can be provided through a combination of General Liability and Umbrella Liability coverage), and all other insurance as required to be in compliance with any and all laws, regulations or orders addressing the liabilities of an employer to its employees for injuries and disease suffered in connection with employment. Supplier further will maintain such additional types and limits of insurance as is customary for a company of similar size and similar operations to Supplier in the jurisdiction(s) in which Supplier's operations take place. If Supplier will perform Services on Dynatrace's premises, Supplier will also maintain (a) Workers' Compensation insurance in the statutory mandated amounts and Employers' Liability insurance with limits not less than the equivalent of \$1,000,000 USD aggregate, with a waiver of subrogation in favor of "Dynatrace LLC and its affiliates"; (b) business automobile liability insurance (including coverage for all owned, non-owned and hired autos, and no fault coverage where applicable) with limits not less than the equivalent of \$1,000,000 USD per occurrence for bodily injury and property damage combined; and (c) fidelity bond or a similar policy covering employee dishonesty (including third party coverage for theft of Dynatrace property) with limits of not less than the equivalent of \$500,000 USD per claim. Finally, if Supplier provides professional or consulting services, Supplier will also maintain Professional Liability or Errors and Omissions insurance with limits not less than the equivalent of \$1,000,000 USD per claim and if Supplier provides software or technology services, then Supplier will maintain Cyber/Technology Omissions insurance with limits not less than the equivalent of \$5,000,000 USD per claim. Supplier will, upon request of Dynatrace, furnish to Dynatrace certificates of insurance evidencing any such coverage and, if requested by Dynatrace, arrange for "Dynatrace LLC and its Affiliates" to be named as additional insureds on all such policies (except Workers' Compensation) providing such coverage.

11. Audit

Dynatrace or its designated agent may, upon reasonable notice, examine and make copies of all records related to the Supplier Offerings and, if applicable, inspect Supplier's premises. Supplier will provide reasonable assistance in collecting data requested by Dynatrace. For three years after Dynatrace makes its last payment under the Purchase Order, or such longer time frame as required by applicable law, Supplier will maintain all records relating to the PO, which Dynatrace may audit in a manner consistent with this Section 11. If an audit reveals that Supplier has failed to comply with the PO, Supplier will cure the noncompliance within thirty (30) days of the audit and pay all expenses incurred by Dynatrace in connection with such audit.

12. Limitation of Liability

DYNATRACE AND ITS AFFILIATES ARE NOT LIABLE UNDER ANY CIRCUMSTANCES FOR LOST OPPORTUNITIES OR PROFITS, OR FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF DYNATRACE AND ITS AFFILIATES IN CONNECTION WITH THE PO SHALL NOT EXCEED THE AMOUNT(S) PAID BY DYNATRACE TO SUPPLIER FOR THE APPLICABLE SUPPLIER OFFERINGS IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

13. Licenses.

Unless otherwise specified in the PO, Supplier grants to Dynatrace a non-exclusive, worldwide, royalty-free, fully paid-up right and license to use, perform, display, distribute, and import any software, including any third-party software or packaged software or SaaS, and related documentation, which is ordered or contained in the Supplier Offerings. Dynatrace may install, use, operate and copy the software on any number of devices in any locations, subject to any specified volume or other license parameters, and use and copy related documentation in connection with accessing the software or SaaS. Dynatrace may sublicense any and all rights granted under this Section 13 to its Affiliates and to any third parties who perform services for Dynatrace or any of its Affiliates. Supplier shall not suspend access to any Supplier Offerings during the term of any subscription, license period, or period of performance. Notwithstanding the foregoing, in the event a Supplier Offering is temporarily unavailable due to a force majeure event or, in the event of software or SaaS, due to scheduled downtime for planned maintenance, then Supplier shall provide prompt written notice to Dynatrace of the event giving rise to the disruption and, where necessary, immediately implement business continuity and disaster recovery procedures to restore access. Notwithstanding anything to the contrary, in the event that any Supplier Offerings is unavailable for a period longer than three (3) business days, Dynatrace may terminate the affected Supplier Offerings for a full refund of any unused prepaid fees.

14. Work Product and IP Ownership

Supplier hereby agrees that: (i) all deliverables that fall under the definition of "work made for hire" as defined under 17 U.S.C. §101 (or which, pursuant to non-U.S. law, would otherwise automatically vest with an employer as "work made for hire" or its equivalent) have been specially commissioned for Dynatrace's purposes and all such deliverables (and all associated rights, including without limitation all intellectual property rights) shall be the sole and exclusive property of Dynatrace; (ii) all trademarks and service marks, as well as all associated goodwill and other rights, created by Supplier as a deliverable or otherwise for the benefit of Dynatrace or as part of the work performed under the PO shall be the sole and exclusive property of Dynatrace; (iii) for all deliverables and rights therein that do not fall within the scope of (i) or (ii), or for which the conveyance detailed in (i) or (ii) is ineffective, Supplier agrees to assign, and hereby assigns, to Dynatrace all of Supplier's rights, titles, and interests (including without limitation all intellectual property rights) therein; and (iv) for all deliverables and rights therein that are not assignable, Supplier hereby grants Dynatrace an exclusive, irrevocable, perpetual, royalty-free, fully paid-up, worldwide, transferable right and license, with the right to sublicense and authorize sublicenses through multiple tiers, under all intellectual property rights and other rights in and to such deliverables, to use, reproduce, make, have made, sell, have sold, import, export, distribute, modify, adapt, create derivative works from, publicly perform and display, and otherwise exploit (all in any medium or format now known or later developed) such deliverables for any purpose. If, with respect to any deliverables and/or rights therein, the aforementioned license cannot as a matter of law be granted as exclusive, it shall be deemed as granted on a nonexclusive basis with respect to all such deliverables and rights. For all rights (e.g. an author's moral rights) in deliverables that, by operation of law, cannot be assigned or licensed by Supplier to Dynatrace, Supplier hereby agrees that, to the extent legally permitted, Supplier shall waive, and hereby waives, such rights and all enforcement thereof against Dynatrace and its affiliates, customers, partners, and licensees.

15. Indemnification

Supplier will defend, indemnify, and hold harmless Dynatrace, its Affiliates, and each of their respective officers, directors, employees, agents, and assigns from and against any loss, damage, settlement, cost, expense and liability (including but not limited to reasonable attorneys' fees) in connection with any third-party claim, demand, action, lawsuit, or other proceeding relating to (a) the design, manufacture, possession, ownership, use, sale or transfer of the Supplier Offerings, (b) breach of any Supplier representations, warranties or other obligations under the PO or these PO Terms, (c) any act or omission of Supplier or its Personnel, (d) Supplier's breach of its import/export obligations; or (e) any personal injury, death or property damage or loss arising in connection with the Supplier Offerings, or otherwise caused by Supplier or its Personnel. Supplier waives any immunity, defense or protection under any workers' compensation, industrial insurance or similar laws and assumes liability for any claim arising out of bodily injury or death to any Personnel.

16. Confidential Information; Publicity

Supplier and its Affiliates will comply with the terms of any active nondisclosure agreement executed between the parties or their respective Affiliates (the "NDA"). If no such agreement exists or the NDA has expired or is no longer in full force and effect, Supplier, its Affiliates and its Personnel will (a) keep confidential the existence of the Purchase Order and all information obtained from Dynatrace that is identified as confidential or proprietary or that, given the nature of such information or the manner of its disclosure, reasonably should be considered confidential or proprietary and (b) use such information solely as necessary to perform under the PO and not disclose any confidential information of Dynatrace or its Affiliates to any third parties other than Supplier's Personnel (as defined below), who have a need to know such information in order for Supplier to perform its obligations under the PO. Dynatrace's confidential information includes, without limitation, Dynatrace's data (including without limitation that of its customers and Affiliates), Personal Data (as defined below), sketches, drawings, roadmaps, proprietary software, code, algorithms, trade secrets, specifications, and technical or commercial information furnished by or developed for Dynatrace, including any Supplier work product prepared for Dynatrace or its Affiliates. All such information is Dynatrace's exclusive property. Without limiting the foregoing, if Supplier plans to use a non-Dynatrace APM or observability tool that employs real user monitoring or session replay, Supplier must: (a) exclude all of Dynatrace's data from such use; or (b) consult with Dynatrace and appropriately mask Dynatrace's data prior to such use in accordance with Dynatrace's instructions. Supplier will not use any trade name, trademark, service mark, logo or commercial symbol, or any other proprietary rights of Dynatrace or any of its Affiliates in any manner without Dynatrace's express prior written consent and in accordance with Dynatrace's brand guidelines. Supplier shall ensure that any person or entity who will receive access to Dynatrace confidential information hereunder (a "Supplier Recipient") is bound by written non-disclosure obligations no less protective of Dynatrace's confidential information than the provisions hereunder, and Supplier shall be liable for any unauthorized disclosure of confidential information by a Supplier Recipient.

17. Data Protection

Each party shall comply with its respective obligations under the relevant data protection and privacy laws. To the extent Supplier processes any Personal Data in connection with the Supplier Offerings, Dynatrace's Data Processing Addendum ("DPA"), available at <https://www.dynatrace.com/company/trust-center/suppliers/> and incorporated by reference, shall govern the processing of such Personal Data. "Personal Data" has the meaning ascribed to it in the DPA.

18. Relationship of the Parties

Supplier is an independent contractor and the PO shall not create a partnership, joint venture, agency, employment, or any other relationship between the parties. Supplier will not represent itself to be an employee, representative or agent of Dynatrace and shall have no authority to enter into any agreement on Dynatrace's behalf or bind Dynatrace to any agreement or obligation.

19. Personnel and Subcontractors

Supplier has sole and exclusive control over its employees, representatives, agents, contractors, subcontractors, and those of its Affiliates (collectively, "Personnel"), including the right to hire, transfer, suspend, lay off, recall, promote, discipline, discharge and adjust grievances with its Personnel. As between the parties, Supplier is solely responsible for all salaries and other compensation of its Personnel who provide the Supplier Offerings and for making all deductions and withholdings from its employees' salaries and other compensation and paying all contributions, taxes and assessments. Supplier's Personnel are not eligible to participate in any employment benefit plans or other benefits, equity, or compensation available to Dynatrace employees. Supplier shall fully indemnify, defend, and hold harmless Dynatrace and its Affiliates from and against any and all costs and expenses incurred by Dynatrace or its Affiliates in connection with any claim, demand, action, or lawsuit made against Dynatrace or its Affiliates by Personnel alleging that such Personnel is an employee of Dynatrace or is otherwise entitled to benefits, remuneration, equity, or other entitlements reserved solely to Dynatrace employees. Supplier is solely responsible for all theft, damage caused, misconduct, acts, and omissions of its Personnel. Supplier will not subcontract or delegate any obligations under the PO without Dynatrace's prior written consent. Supplier is solely responsible for its full performance under the PO and for its Personnel's compliance with these PO Terms. If Supplier performs Services on Dynatrace's premises, Supplier will (a) be solely responsible for and have control over its Personnel, ensuring that any actions taken by those Personnel are done in accordance with health and safety laws and Dynatrace Policies. Supplier's Personnel will abide by all Dynatrace's rules, policies, and procedures, including with respect to safety, security, health, environmental and hazardous material management, misconduct, physical aggression, harassment and theft (collectively, "Rules"); and (b) at Dynatrace's request, remove and promptly replace any Personnel providing Supplier Offerings who behaves in a manner that is unlawful or inconsistent with any Rule or the Dynatrace Policies.

20. Assignment

Supplier may not assign the PO (in whole or part) without Dynatrace's prior written consent. Any assignment in violation of the foregoing is voidable by Dynatrace. Subject to the foregoing, the PO is binding on and inures to the benefit of any successors and assigns.

21. General

A party's failure to insist on compliance with any of the terms of the PO or failure to exercise any right hereunder does not constitute a waiver. The rights and remedies of the parties under hereunder are cumulative, and either party may enforce any of its rights or remedies in contract, at law, or in equity. If any provision of the PO is determined by any court or governmental authority to be unenforceable, the parties intend that the PO be severed of the unenforceable provision and that the remaining provisions be enforced to the fullest extent possible under applicable law. The section headings of these PO Terms are for convenience only and have no interpretive value. Sections 1, 6, 7, 10-12, 14-24, and any provisions which by their nature must survive to effectuate their purpose, will survive termination, expiration, or cancellation of the PO.

22. Dynatrace Policies; Failure to Comply

Dynatrace's Supplier Code of Conduct prohibits bribery to any person for any reason whatsoever, whether for transactions with government authorities or private entities. Supplier shall not violate any Dynatrace Policies or any applicable laws. Dynatrace may immediately terminate or suspend performance under the PO without notice if Supplier breaches the Dynatrace Policies.

23. Governing Law and Venue

The PO is governed and interpreted under the internal laws of the jurisdiction in which the Dynatrace entity identified in the PO has its registered business address (the "Governing Location"), without regard to conflict of laws principles and excluding the U.N. Convention on the Contracts for the International Sale of Goods. Supplier irrevocably consents to the jurisdiction of the courts of the Governing Location and waives any objections to jurisdiction and venue in such courts. To the extent permitted by law, all proceedings will be conducted in the English language. Notwithstanding anything to the contrary, the parties agree that any unauthorized disclosure of confidential information may cause immediate and irreparable injury to the disclosing party and that, in the event of such breach, the disclosing party will be entitled, in addition to any other available remedies, to seek immediate injunctive and other equitable relief, in any court of competent jurisdiction, without bond and without the necessity of proving actual monetary damages.

24. Anti-Discrimination and Equal Opportunity

To the extent applicable to Supplier for Supplier Offerings provided to Dynatrace in the U.S.: This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.