



## **PROFESSIONAL SERVICES TERMS**

### **专业服务条款**

Except as set forth in these “Terms”, implementation, training, consulting, performance analysis, or other professional services (“Professional Services”) are governed by the executed end-user agreement between Dynatrace and Customer, or where there is no such agreement, the Dynatrace Subscription Agreement available at <https://www.dynatrace.com/company/trust-center/customers/>.

除本“条款”规定外，实施、培训、咨询、性能分析或其他专业服务（“专业服务”）受 Dynatrace 与客户签署的最终用户协议约束；如无此类协议，则受 Dynatrace 订阅协议（可通过 <https://www.dynatrace.com/company/trust-center/customers/> 获取）约束。

In the event of a conflict or inconsistency between the English and Chinese language versions of these Terms, the English version shall prevail.

若本条款的英文版本与中文版本之间存在冲突或不一致之处，应以英文版本为准。

- 1. Scheduling.** Dynatrace will provide Professional Services only during Business Hours on Business Days within the “Service Period” stated in the order document or statement of work which identifies the Professional Services ordered by Customer, unless otherwise agreed, subject to availability of the assigned Dynatrace “Consultant.” “Business Hours” means 8 hours on a Business Day any time between the hours of 08:00 and 18:00 in the time zone where the Professional Services are being performed. “Business Day” means a calendar day excluding weekends, local, statutory, or Dynatrace corporate holidays.

**时间安排。**除非另有约定，否则 Dynatrace 应仅在订单文件或工作说明书（注明客户订购的专业服务）规定的“服务期”内的工作日的工作时间内提供专业服务，且需考虑指定 Dynatrace “顾问”的可用时间。“工作时间”指工作日当天在专业服务执行地时区 08:00 至 18:00 之间的 8 小时。“工作日”指除周末、当地假日、法定假日或 Dynatrace 公司假期外的日历日。

- a. Outside Business Hours and/or Business Days.** A 50% uplift in Flexpoints/fees applies to all Professional Services scheduled outside Business Hours and a 100% uplift applies to all Professional Services scheduled outside Business Days. Applicable uplift will be pre-approved by Customer in writing. Consultants may be unavailable during Dynatrace-required professional development trainings or outside of Business Days and such unavailability will not affect the Service Period. On-call/standby time will be charged at 1 Flexpoint (or the equivalent in fees, if applicable) per 4-hour session plus charges for actual hours worked at the rates stated in this Section.

**非工作时间和/或工作日。**所有在工作时间外安排的专业服务，弹性点数/费用上浮 50%，所有在工作日外安排的专业服务则上浮 100%。适用上浮费用需经客户书面预先批准。顾问可能因 Dynatrace 要求的专业发展培训或非工作日而无法提供服务，此类不可用情况不会影响服务期。随叫随到/待命时间将每 4 小时时段按 1 个弹性点数（或等值费用，如适用）收费，此外还需按本条款所规定费率计算实际工作时长费用。

- 2. Rescheduling.** Customer may reschedule Professional Services upon written notice and will be responsible for all resulting out-of-pocket expenses incurred by Dynatrace, including non-refundable travel or accommodation costs, fees, or penalties. If Dynatrace receives Customer’s written notice to reschedule less than 5 Business Days before the scheduled start date, Dynatrace reserves the right to charge a late cancellation fee equal to 50% of the session fees (or equivalent Flexpoints, if applicable). This is in recognition that late cancellation does not afford Dynatrace a commercially reasonable opportunity to reallocate its resources.

**重新安排。**客户可书面通知重新安排专业服务，并应承担 Dynatrace 因此产生的所有实付费用，包括不可退还的差旅或住宿成本、费用或罚款。如 Dynatrace 在预定开始日期前不足 5 个工作日收到客户重新安排的书面通知，Dynatrace 有权收取等于该场次费用 50% 的延迟取消费（或等值弹性点数，如适用）。这是因为延迟取消未给予 Dynatrace 商业上合理的资源重新分配的机会。

- 3. Sub-Contractors.** Unless otherwise agreed, Dynatrace may use sub-contractors to perform Professional

Services and will remain responsible for the performance of all subcontracted obligations.

**分包商。**除非另有约定，否则 Dynatrace 可使用分包商执行专业服务，并对所有分包义务的履行负责。

4. **Dynatrace Materials.** Customer may use the Dynatrace Materials provided with or as part of the Professional Services solely for Customer's internal business purposes in connection with Customer's subscription to the Dynatrace product(s). "Dynatrace Materials" means all trainings, dashboards, presentations, report templates or other templates, documentation, materials, methodologies, processes, techniques, ideas, concepts, trade secrets, know-how, works of authorship, formulas, algorithms, databases, scripts, configurations, logos, symbols, designs, and other inventions that Dynatrace develops or supplies in connection with the Professional Services, or other offerings that Dynatrace makes generally available, including all copies, portions, modifications, improvements and derivative works of any of the foregoing. Professional Services and the Dynatrace Materials are not "works made for hire" and Dynatrace retains all rights, title, and interest therein. On-going maintenance, upgrades, updates, or continued support of the Dynatrace Materials shall not be provided after delivery unless otherwise agreed. Training sessions may not be recorded without Dynatrace's prior written consent.

**Dynatrace 材料。**客户仅可为其内部业务目的，在客户订阅 Dynatrace 产品的范围内使用随专业服务一起提供或作为专业服务一部分提供的 Dynatrace 材料。"Dynatrace 材料"指由 Dynatrace 针对专业服务开发或提供的所有培训材料、仪表盘、演示文稿、报告模板或其他模板、文档、资料、方法论、流程、技术、创意、概念、商业秘密、专有技术、著作、公式、算法、数据库、脚本、配置、标识、符号、设计及其他发明，或 Dynatrace 普遍提供的其他产品，包括上述各项的所有副本、部分、修改、改进和衍生作品。专业服务和 Dynatrace 材料并非“受雇创作的作品”，Dynatrace 保留其中的所有权利、所有权和利益。除非另有约定，否则 Dynatrace 在材料交付后不再提供持续维护、升级、更新或持续支持。未经 Dynatrace 事先书面同意，不得录制培训课程。

5. **Incidental Expenses.** Unless otherwise agreed, Customer will reimburse Dynatrace for all reasonable out-of-pocket expenses, including travel, meals and accommodation expenses incurred by Consultants for travel to or onsite work performed on any engagement. Dynatrace will supply Customer with reasonable supporting documentation upon request.

**附带费用。**除非另有约定，客户应向 Dynatrace 报销所有合理的实付费用，包括顾问为任何项目出差或现场工作产生的差旅、餐饮和住宿费用。Dynatrace 将经请求而向客户提供合理的支持性文件。

6. **Delay.** Dynatrace's performance of its obligations will be permissibly delayed or excused due to Customer's failure to provide Dynatrace with the contemplated personnel, data, resources, materials, access, workspace and/or training facilities or the like reasonably requested by Dynatrace as necessary for the performance of the Professional Services ("Customer Delay"). Any requested extension of the Service Period due to Customer Delay shall be subject to additional fees and expenses.

**延误。**由于客户未能向 Dynatrace 提供 Dynatrace 为履行专业服务而合理要求的预期人员、数据、资源、材料、访问权限、工作空间和/或培训设施等，将会造成允许延迟履行或免除 Dynatrace 履行其义务（“客户延误”）。如因客户延误需要延长服务期的，则须支付额外费用和开支。

7. **Non-Solicitation.** During the Service Period and for 12 months thereafter, Customer agrees to the extent permitted by law that it will not, directly or indirectly, solicit for employment or employ any Dynatrace employee who is engaged in the Professional Services; provided that (i) non-directed internet or public advertisements and search firm engagements shall not be considered as "solicitation" and (ii) the restrictions under this Section shall not apply with respect to Dynatrace employees that initiate contact with Customer.

**禁止招揽。**在服务期内及之后的 12 个月内，客户同意在法律允许的范围内，不直接或间接招揽或雇佣任何参与专业服务的 Dynatrace 员工；但前提是：(i) 非定向互联网广告或公开招聘广告以及与猎头公司的合作不应被视为“招揽”；(ii) 本条规定的限制不适用于主动与客户联系的 Dynatrace 员工。

8. **Change Orders.** Either party may request a change order and Dynatrace will provide an estimate of the financial and schedule impacts. All pricing changes must be mutually agreed in writing by the parties.

**变更订单。**任何一方均可请求变更订单，Dynatrace 将提供财务和进度影响的估算。所有定价变更必须经双方书面共同同意。

9. **Personnel.** Dynatrace will determine the Consultants assigned to perform Professional Services. Customer may request in writing the replacement of Consultants that Customer reasonably believes are not adequately performing Professional Services.

人员。Dynatrace 将确定指派执行专业服务的顾问。客户可书面请求更换其合理认为未充分履行专业服务的顾问。

10. **Portal.** Dynatrace may grant Customer access to and use of the Dynatrace Services Portal (or similar) in connection with Professional Services and such are offered and provided “as-is” without any warranty or guaranty.

门户网站。Dynatrace 可授予客户访问和使用 Dynatrace 服务门户网站（或类似门户网站）的权限，以配合专业服务，且该等门户网站按“现状”提供，不附带任何保证或担保。

11. **Region-Specific Terms.** The following additional or amended terms apply to Professional Services performed in the locations noted below.

地区特定条款。针对在以下地点执行的专业服务，适用以下附加或修订条款。

a. **United States, and Canada:**

美国和加拿大：

“Non-Solicitation” is deleted and replaced with the following:

“禁止招揽”删除并替换为以下内容：

**Conversion Fee.** During the Service Period and for 12 months thereafter, if Customer wishes to hire any Consultant, Customer shall pay to Dynatrace a conversion fee equal to the Consultant’s current monthly salary multiplied by the number of months that such Consultant has been employed by Dynatrace, but in no case more than \$150,000 (local currency).

转换费。在服务期内及之后 12 个月内，如希望雇佣任何顾问，客户应向 Dynatrace 支付转换费，金额为该顾问现有月薪乘以在 Dynatrace 的工作月数，但无论如何不超过 150,000 美元（当地货币）。

The following is added to “Incidental Expenses”:

以下内容添加到“附带费用”：

If Customer retains on-site Velocity Consultant Services for 6 months or more, Customer is responsible for reimbursement of up to 2 weeks of incidental expenses incurred by the Velocity Services Consultant at the start of engagement, not to exceed \$6,000 (local currency), while the Velocity Services Consultant is provisioning long term housing. All other relocation, travel and expenses for Velocity Consultant Services are included in fees paid if the Velocity Services Consultant is required to be on-site at the Customer’s primary location to perform the Professional Services. If Customer wishes to have a Velocity Services Consultant travel outside the primary location, Customer is responsible for Incidental Expenses in accordance with this Section.

如客户保留现场 Velocity 顾问服务达 6 个月或更长时间，则客户有责任报销 Velocity 服务顾问在服务开始时为配置长期住所产生最多 2 周的附带费用，金额不超过 6,000 美元（当地货币）。如果要求 Velocity 服务顾问在客户主要地点现场执行专业服务，则 Velocity 顾问服务的所有其他搬迁、差旅和费用均包含在已支付的费用中。如客户希望 Velocity 服务顾问前往主要地点外出差，则应根据本节规定承担附带费用。

b. **France:**

法国：

The following is added:

添加了以下内容：

**Overdue Charges.** Any late payment will result, without a reminder being necessary, in the payment

by Customer of a fixed compensation of recovery costs of 40 €, in addition to a late payment penalty calculated at the rate of 3 times the legal interest rate and applied from the due date of payment until full payment of the invoice. Any invoice not disputed by the Customer within 15 days from the date of receipt will be deemed accepted by the Customer.

逾期费用。除逾期付款违约金按法定利率的 3 倍计算，自付款到期日起算直至发票全额付清为止外，任何逾期付款均无需催告，即客户须支付 40 欧元的固定补偿追讨费用。客户自收到发票之日起 15 日内未提出异议的，视为接受该发票。

**c. United Kingdom:**

**英国:**

“Business Hours” means 7.5 hours completed on Business Days between the hours of 09:00 and 18:00 in the time zone where the Professional Services are being performed.

“工作时间”指工作日当天在专业服务执行地时区 09:00 至 18:00 之间完成工作的 7.5 小时。

**d. Australia, and New Zealand:**

**澳大利亚和新西兰:**

“Business Hours” means 7.5 hours completed on Business Days between the hours of 08:00 and 18:00 in the time zone where the Professional Services are being performed.

“工作时间”指工作日当天在专业服务执行地时区 08:00 至 18:00 之间完成工作的 7.5 小时。

“Outside Business Hours and/or Business Days” is deleted and replaced with the following:

“非工作时间和/或工作日”删除并替换为以下内容:

If Consultants are required to perform Professional Services outside of Business Hours, work will be subject to overtime rates at an additional 50% per hour between 18:00 and 21:00, and 100% between 21:00 and 08:00, or on public holidays and weekends. Any overtime will be pre-approved by the Customer in writing. On-call/standby time will be charged at the rates stated in this Section in minimum ½ day increments plus charges for actual hours worked at the rates stated in this Section.

如要求顾问在工作时间外执行专业服务，工作将适用加班费率：18:00-21:00 期间，每小时将额外增加50%计费，21:00-08:00期间 或公共假期和周末期间，每小时将额外增加100%计费。任何加班都需经客户书面预先批准。随叫随到/待命时间将按本条款所规定的费率以最少半日报酬为增量收费，外加按本条款所规定费率计算的实际工作时间的费用。

**e. Southeast Asia, India, China, Japan, and Korea:**

**东南亚、印度、中国、日本和韩国:**

“Outside Business Hours and/or Business Days” is deleted and replaced with the following:

“非工作时间和/或工作日”删除并替换为以下内容:

If Consultants are required to perform Professional Services outside of Business Hours, work will be subject to overtime rates at an additional 50% per hour between 18:00 and 21:00, and 100% between 21:00 and 08:00, or on public holidays and weekends. Any overtime will be pre-approved by the Customer in writing. On-call/standby time will be charged at the rates stated in this Section in minimum ½ day increments, plus charges for actual hours worked at the rates stated in this Section.

如要求顾问在工作时间外执行专业服务，工作将适用加班费率：18:00-21:00 期间，每小时将额外增加 50%计费，21:00-08:00期间 或公共假期和周末期间，每小时将额外增加 100%计费。任何加班都需经客户书面预先批准。随叫随到/待命时间将按本条款所规定的费率以最少半日报酬为增量收费，外加按本条款所规定费率计算的实际工作时间的费用。

**f. Brazil, Mexico, Peru, Chile, Colombia, Ecuador, Puerto Rico, Dominican Republic, Guatemala, Uruguay, Argentina, and Bolivia:**

**巴西、墨西哥、秘鲁、智利、哥伦比亚、厄瓜多尔、波多黎各、多米尼加共和国、危地马拉、乌**

拉圭、阿根廷和玻利维亚：

**“Outside Business Hours and/or Business Days”** is deleted and replaced with the following:

“非工作时间和/或工作日” 删除并替换为以下内容：

All resource requests are subject to up to a 4-week lead time. If Consultants are required to perform Professional Services outside of Business Hours, work will be subject to overtime rates at an additional 50% per hour between 18:00 and 21:00, and 100% between 21:00 and 08:00, or on public holidays and weekends. Any overtime will be pre-approved by the Customer in writing. On-call/standby time will be charged at 1 Flexpoint (or the equivalent in fees, if applicable) per 4-hour session plus charges for actual hours worked at the rates stated in this Section.

所有资源请求需提前最多 4 周。如要求顾问在工作时间外执行专业服务，工作将适用加班费率： 18:00-21:00 期间，每小时将额外增加 50%计费，21:00-08:00 或公共假期和周末期间，每小时 将额外增加 100%计费。任何加班都需经客户书面预先批准。随叫随到/待命时间将每 4 小时时段按 1 个弹性点数（或等值费用，如适用）收费，外加按本条款所规定费率计算的实际工作时间的费用。