

PROFESSIONAL SERVICES TERMS AND CONDITIONS

These Professional Services Terms and Conditions ("Conditions") set forth the general terms and conditions under which Customer engages Company to provide certain professional services to Customer on a time and materials basis pursuant to a Statement of Work, or similar agreement entered into between Customer and Company ("SOW"). The SOW will be a document referred to as such and signed on behalf of the Customer and Company. The SOW together with these Professional Services Terms and Conditions will together constitute the "Agreement". The "Services", together and individually, as applicable, are the services described in the relevant SOW purchased by Customer.

All references to "Customer" shall mean the customer set forth in the applicable SOW. All references to "Company" shall mean the applicable entity identified below:

- Ivanti Software, Inc., a Delaware corporation, performs Services in the Americas.
- Ivanti U.K. Ltd, an English company, performs Services in all other locations (excluding the companies below).

1 SERVICES. Each SOW will be signed by the parties and shall include a detailed description of the Services to be provided. In the event of any conflict or inconsistency between these Conditions and the SOW, these Conditions shall control; and, any term and condition set forth in a purchase order, preprinted or otherwise, that is not expressly allowed by these Conditions or that is in addition to or conflicts with the terms and conditions of these Conditions, will have no force and effect. Any quotation for Services shall not constitute an offer and shall only be valid for a period of one (1) month from its date of issue.

2 TERM AND TERMINATION.

2.1 Term. This Agreement shall commence on the date of last signature, or the "effective date", of the SOW, whichever is later, and shall remain in force unless terminated in accordance with its terms. The duration for each SOW shall be specified in the respective SOW. For the avoidance of doubt, upon termination of this Agreement all Services shall automatically terminate.

2.2 Termination for Breach. Either party may terminate the Agreement in the event that the other party commits a material breach of a material provision of the Agreement and such breach remains uncured not less than thirty (30) days from the date of receipt of such notice.

2.3 Rescheduling. Unless otherwise agreed by both Parties in writing, if Customer postpones or reschedules a project fewer than ten (10) business days but more than five (5) business days prior to the start date of a project, Customer shall pay Company fees equal to the fees quoted for one (1) day of Services under the project or \$2,500, whichever is less. If Customer postpones or reschedules a project fewer than five (5) business days prior to the start date of a project, Customer shall pay Company fees equal to the fees quoted for: (i) the number of days of Services postponed, (ii) one week of Services due for the project as if it had been fully performed, or (iii) \$12,500, whichever is less. Any rescheduling of Services under a SOW shall be subject at all times to the SOW's completion criteria and/or any long-stop dates specified in the SOW.

3 IMPLEMENTATION PRACTICES. Company uses, develops and refines processes, procedures, best practices, computer software code, general knowledge, skills, experience, ideas, know-how, and implementation techniques (collectively, "Implementation Practices") by providing implementation and configuration services to many customers. Customer benefits from those Implementation Practices and agrees that Company owns and is free to use the Implementation Practices in its sole discretion, including Implementation Practices developed or refined in the course of providing Services to Customer, so long as the Implementation Practices do not include the use of or reference to the Customer's Confidential Information (as defined below). Company grants Customer a non-exclusive, non-transferable, royalty-free, perpetual, and limited license to use the Implementation Practices within Customer's organization, for the purpose for which the Services were provided. In the event that the Services involve Company software products licensed to Customer under a separate license agreement, only the terms set out in such separate license agreement shall apply in respect for each such Company software product. For the avoidance of doubt, all materials provided by Customer to Company in connection with the Services shall remain Customer property.

4 CONFIDENTIALITY.

4.1 "Confidential Information" means any information or materials provided by one party to the other party which are in tangible form and labelled as confidential or, if disclosed orally, are identified as being confidential at the time of disclosure and within thirty (30) days thereafter are summarized to the other party in writing and marked as confidential. Notwithstanding the foregoing, the following information shall always be deemed to be Confidential Information, regardless of whether in writing or marked as confidential: (i) for Company: product roadmaps, source code, formulae, processes, release dates, feature sets, strategic business plans, methodologies; and (ii) for Customer: its customer data, strategic business plans and architecture.

4.2 Each party shall: (i) use Confidential Information of the other party only to exercise its rights or performing its obligations under the SOW; (ii) restrict disclosure of the other party's Confidential Information to such of its and its affiliates' employees, consultants, contractors and service providers that have a 'need to know' in order to carry out the Services and who are bound by written confidentiality obligations similar to those set out herein and (iii) use at least reasonable care to protect disclosure of such Confidential Information to any third parties for a period of three (3) years from the date of disclosure provided, however, that Confidential Information that constitutes or contains Company trade secrets or other proprietary rights shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, a receiving party may disclose Confidential Information pursuant to a valid order of a court or government authority provided that the receiving party has given the disclosing party prompt notice, to the extent legally permissible, so that the disclosing party may defend, limit or protect against such disclosure. The restrictions on disclosure and use set forth herein shall not restrict or limit the right of the receiving party to (a) independently, and without use of the disclosing party's Confidential Information, design, develop, acquire, market, service or otherwise deal in, directly or indirectly, products or services competitive with those of the disclosing party; or (b) assign personnel for any purpose.

4.3 Confidential Information does not include information that: (i) is rightfully in the receiving party's possession without obligation of confidentiality prior to receipt from the disclosing party; (ii) is in the public domain through no fault of the receiving party; (iii) was independently developed by the receiving party without use of the Confidential Information of the disclosing party; or (iv) becomes known to the receiving party by a third party, without restriction.

5 PAYMENT TERMS.

5.1 Payment. Company will provide the Services on a time and materials basis as set forth on the applicable quote, plus applicable taxes and a fixed daily rate for travel and accommodation expenses. Unless otherwise agreed to in the SOW, SOW invoices will be issued monthly in arrears. All invoices must be paid within thirty (30) days of the date of invoice, without deduction, set-off or withholding. All charges are non-refundable unless specifically stated otherwise in the relevant SOW. All charges and fees shall be paid in the currency described in the relevant quote. Unless otherwise agreed to anything in the SOW, a consulting day is defined as eight (8) hours on a non-holiday weekday.

5.2 Taxes. All charges and fees set out in the relevant quote associated with the SOW are quoted exclusive of applicable taxes, duties or similar charges. Customer shall pay all sales, use,

withholding, excise or other taxes or duties arising out of the SOW; provided, however, that Customer shall not be responsible for taxes on the net income of Company.

5.3 Late Payments. Company may charge interest on any overdue invoices at a rate of one and one half percent (1.5%) per month or the maximum amount permitted by law, whichever is less. If payment of invoices remains overdue more than seven (7) days from Company's rectification notice to Customer prompting payment, Company may also suspend provision of the Services until payment is received in full.

5.4 Purchases from a Third-Party Reseller. This Section 5.4 shall not apply to Customers who purchase Services directly from Company. If Customer purchases from a party other than Company (each a "Reseller") then Customer acknowledges that its payment for the Services is subject to the agreement between the Customer and the Reseller. Customer agrees that the Agreement, except for the 'Payment Terms' provisions above, shall apply to Customer's receipt and use of the Services, notwithstanding anything to the contrary in Customer's agreement with the Reseller. Company shall not be liable for any representations, warranties, indemnities or damages beyond those set forth in the Agreement. Customer acknowledges that if Company does not receive payment for the Services from the Reseller, Company shall have the right to suspend the Services until payment is received, without liability to Company and Customer shall look solely to the Reseller for any damages or liability associated with such suspension.

6 WARRANTY AND LIMITATION OF LIABILITY.

6.1 Limited Warranty. Company warrants that the Services will be performed in a workmanlike manner in accordance with industry standards. If Customer believes there has been a breach of this warranty and so notifies Company in writing, stating in reasonable detail the nature of the alleged breach within thirty (30) days after Company delivers the Services, then Company will promptly investigate the matter via remote access to determine the nature of the alleged breach of warranty. If there has been a breach of this warranty, then Company's sole obligation and Customer's exclusive remedy will be for Company to correct or re-perform any affected Services as necessary to cause them to comply with this warranty. If Company is unable to correct a breach of this warranty after repeated efforts, Customer will be entitled to receive an equitable adjustment in the charges for the Services in question (up to the total amount of such charges under the applicable Statement of Work) to reflect any reduction in the value of the Services as a result of the uncorrected breach of warranty.

6.2 Customer warrants that any prerequisites (as set out in the relevant SOW) shall be completed fully and accurately prior to the commencement of the Services. In the event that any of the prerequisites listed in the relevant SOW are not completed prior to (or during) delivery of the Services (and failure to do so was not as a direct result of Company's actions), the parties shall negotiate in good faith a revised timetable to complete the Services. Should the parties fail to agree a revised timetable within a reasonable period of time, Company shall have the right to terminate the SOW and Customer shall remain liable to pay the full charges set out in the SOW.

6.3 Disclaimer and Exclusions. THE EXPRESS WARRANTIES SET FORTH ABOVE ARE IN LIEU OF (TO THE FULLEST EXTENT PERMITTED BY LAW) ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE SERVICES, OR AS TO THE RESULTS WHICH MAY BE OBTAINED THEREFROM, AND COMPANY DISCLAIMS ALL IMPLIED WARRANTIES OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. THE SERVICES ARE PROVIDED ON AN 'AS IS' BASIS.

6.4 Limitation of Liability. NEITHER PARTY WILL BE LIABLE FOR ANY PUNITIVE, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCURRED (INCLUDING LOST DATA AND/OR LOST PROFITS) EVEN AFTER HAVING BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE EXCLUSION OF LIABILITY FOR LOST PROFITS SHALL NOT PREVENT LANDESK FROM RECOVERING UNPAID FEES WHICH HAVE ACCRUED DUE IN FULL. EACH PARTY'S MAXIMUM LIABILITY FOR ANY ACTION, REGARDLESS OF THE FORM OF ACTION, WHETHER IN TORT OR CONTRACT, ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF FEES PAID BY CUSTOMER FOR THOSE SERVICES GIVING RISE TO THE CLAIM. THE PARTIES AGREE TO THIS LIABILITY ALLOCATION AND THAT SERVICES FEES ARE BASED UPON THIS ALLOCATION.

6.5 Notwithstanding anything to the contrary, nothing in this Agreement shall operate as to limit or exclude the liability obligations which cannot be excluded by applicable law. In addition, where this Agreement is governed by English law as specified in Section 9.11, nothing in this Agreement shall operate to exclude or limit the liability of either party for death or personal injury caused by negligence or for fraudulent misrepresentation.

7 NON-SOLICITATION. During the term of the Agreement and for a period of one (1) year thereafter, Customer shall not offer employment or engagement (whether as an employee, independent contractor or consultant) to any Company employee or consultant who performs any of the Services. The foregoing limitation shall not apply to employment subject to a general advertising campaign not specifically targeted at such employees and consultants.

8 CUSTOMER OBLIGATIONS.

8.1 Cooperation. The Customer shall provide Company with all necessary co-operation, information and support that may reasonably be required by Company for the performance of the Services including, without limitation, access to suitably configured computers, software products and applicable passwords, at such times as Company request. Customer shall further perform such other Customer obligations as specified in the SOW (if any).

8.2 Managed Services Provider. In the event that Company delivers Services to Customer's outsourced managed services provider ("MSP"): (i) Customer shall ensure that its MSP provides Company with all necessary co-operation, information and support that may reasonably be required by Company for the performance of the Services including (if required for delivery of the Services) access to suitably configured computers, software products and applicable passwords, at such times as Company requests; and (ii) Customer must ensure that its MSP provides Company personnel with reasonable access to all buildings, parking, phone systems, internet access, server rooms, and workstations, and will provide all necessary passes, if required, for access to such areas. Customer represents and warrants that it has the authority and required authorizations from its MSP to enter into the SOW with Company.

9 GENERAL

9.1 No Assignment. Except for a transfer of all or substantially all of a party's business and assets, whether by merger, sale of assets, sale of stock, or otherwise, neither party shall assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement without the prior written consent of the other party.

9.2 Notices. Any notices permitted or required under the Agreement shall be in writing and shall be delivered by: (i) pre-paid first-class post or recorded delivery post, with proof of delivery; (ii) in person; (iii) by courier, upon written confirmation of receipt; or (iv) by facsimile or email, with confirmation of

receipt. Notices shall be sent to the address, email address and facsimile number specified in the SOW, or quote, where applicable.

- 9.3 Severance.** If any provision of the Agreement is held to be unenforceable, void or invalid under applicable law, such provision shall be deemed omitted and the remaining provisions will remain in full force.
- 9.4 Independent Contractors.** The relationship between Company and Customer established by the Agreement is that of independent contractors. Nothing in the Agreement shall be deemed to constitute either party as an agent, partner or representative of the other party or otherwise grant either party the authority to bind the other party to any obligation. Customer shall make no representations or warranties on behalf of Company with respect to the Services.
- 9.5 Entire Agreement.** The parties agree that the Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof and supersedes all previous communications and agreements (whether written or oral). All terms of any purchase order or similar document provided by Customer or that are implied by trade, custom, practice or course of dealing are expressly excluded and shall be of no legal effect. No employee, agent, representative or affiliate of Company has authority to bind Company to any warranty concerning the Services; any representation or warranty not expressly set out in the Agreement will not be enforceable.
- 9.6 Force Majeure.** Neither party will incur any liability to the other party for any loss or damage resulting from any delay or failure to perform any part of the Agreement if the such failure or delay is caused by circumstances beyond the parties' reasonable control including, without limitation, flood, fire, acts of war, terrorism, earthquake and acts of God; however inability to meet financial obligations is expressly excluded. Company shall not be liable for any failure of delay in performing its obligations on account of Customer's failure to perform its obligations under this Agreement.

- 9.7 Third Party Rights.** A person who is not a party to the Agreement shall not have any rights under or in connection with it.
- 9.8 Variation.** Any variation to the Agreement, shall only be binding when agreed in writing and signed by both parties.
- 9.9 Counterparts.** The SOW may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. This SOW may be executed and delivered by facsimile or in Portable Document Format ("PDF") and the parties agree that such facsimile or PDF execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each party may use such facsimile, PDF, or e-signatures as evidence of the execution and delivery of this SOW by all parties to the same extent that an original signature could be used.
- 9.10 Survival.** Sections 3, 4, 5, 6, 7, and 9 shall survive the termination or expiration of this Agreement.
- 9.11 Governing Law:** If the Agreement is with LANDesk Software, Inc., it will be governed by the laws of the State of Utah without regard to conflict of laws principles and in any dispute arising out of or in connection with the Agreement the Customer consents to the exclusive jurisdiction and venue in the State and Federal courts within Salt Lake County, Utah. If this Agreement is with any of Company's English companies or German companies, it will be governed by the laws of the England and Wales without regard to conflict of laws principles and in any dispute arising out of or in connection with this Agreement the Customer consents to the exclusive jurisdiction of the English courts. The United Nations Convention for the International Sale of Goods shall not apply to the Agreement.