



## CONTRACTOR TERMS AND CONDITIONS

July 2016

These Contractor Terms and Conditions (“Agreement”) apply to a work order that incorporates these terms and conditions entered into between MicroStrategy Incorporated and/or its affiliates (“we,” “us,” “our”) and the entity performing Services identified on the work order (“you,” “your”).

**1. Services.** You will perform services specified in a work order (“Services”). You will periodically advise us of your progress, and upon request, prepare written progress reports.

**2. Your Employees.** You will allow us to perform, at our expense, a background investigation on your employees before they may perform Services, according to applicable law and our policies. We may also authorize you to perform background investigations. You warrant that all employees you submit to us are eligible for employment in the United States and you will provide us with written notice of any restrictions on your employees’ legal eligibility to work. We may require your employees to utilize mobile software applications for physical and logical access to our buildings and systems. You will equip each employee, at your expense, with an electronic device that supports our applications. If we request that you replace an assigned employee, you will immediately provide us with a replacement satisfactory to us at no additional charge. You are responsible for all acts or omissions of your employees, agents, and subcontractors.

**3. Ownership.** Everything you develop or prepare under this Agreement (“Works”) is “work made for hire” under the United States Copyright Act, 17 U.S.C. §§ 101 et seq. as amended, and you grant us all rights or interests you have in the Works. If any of the Works are not legally deemed to be a “work made for hire,” you irrevocably assign to us all of your right, title, and interest in and to such Works. You will assist us to establish, protect, and enforce our rights in the Works. Upon termination of this Agreement or a work order, you will deliver to us all Works you possess.

**4. Termination.** Either party may terminate a work order if the other party breaches a material provision of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice. We may terminate this Agreement or any work order for any reason upon prior written notice. Upon any termination, we are only obligated to pay for undisputed Services you provided before termination.

**5. Insurance.** During the term of this Agreement, you will maintain: (a) Comprehensive General Liability Insurance with limits no less than \$1,000,000 for each occurrence of bodily injury (including death) or property damage and \$2,000,000 aggregate; (b) Automobile Liability Insurance with a minimum \$1,000,000 “combined single limit” coverage (for both bodily injury and property damage); (c) Workers Compensation as required by law; (d) Employer’s Liability Insurance with a limit no less than \$1,000,000; (e) Errors & Omissions Liability Insurance, including Cyber Liability coverage, with a limit no less than

\$1,000,000; and (f) Client coverage with a limit no less than \$1,000,000. Insurance coverages for (a)-(c) will: (i) be primary and non-contributory; (ii) include a waiver of subrogation; and (c) list us as an additional insured. Upon request, you will provide a Certificate of Insurance showing such policies are in effect and will not be cancelled without thirty (30) days’ written notice to us. Compliance with this provision will not relieve you from liability under any provision of this Agreement.

**6. Timesheets.** On a weekly basis you will enter all Services delivered during the prior calendar week (12:00 a.m. EST Sunday to 11:59 p.m. EST Saturday) into the time entry system we designate by 11:59 p.m. EST Sunday. By 11:59 p.m. EST on each of the fifteenth (15<sup>th</sup>) and the last day of the month, you will also enter all Services delivered through each of those dates. We will only compensate you for hours you accurately enter into our designated time entry system within thirty (30) days from delivery of such hours.

**7. Invoices.** You will submit invoices for Services delivered and expenses incurred during the prior calendar month by the fifteenth (15<sup>th</sup>) day of each month (“Invoice Due Date”) to the address stated on our purchase order. We have the right to decline to pay any invoice that we receive after the Invoice Due Date. Each invoice will apply to only one work order. Invoices for Services delivered will include: (a) our purchase order number under which you performed Services; and (b) print outs of relevant time sheets from our designated time entry system. You will not submit hourly timesheets in excess of forty (40) hours per week per employee without our prior written consent. Invoices for expenses incurred will include: (x) our purchase order number under which expenses were incurred; (y) an expense log as provided by us for the relevant period; and (z) original receipts taped to one side of letter sized paper.

**8. Payments.** We will compensate you on an hourly time and materials basis unless otherwise specified in a work order. You will not deliver Services before receiving a valid purchase order(s) from us or in excess of the dollar amount specified on a purchase order(s). We will pay all undisputed properly submitted invoices within thirty (30) days of receipt, unless you are acting as a subcontractor to provide Services to one of our customers, in which case we will pay you within thirty (30) days of receipt of payment from our customer for such Services. You will pay applicable federal and state taxes and other payments due to your employees relating to the fees you receive under this Agreement.

**9. Audit.** You will keep accurate and complete records relating to your activities under this Agreement. At our request but not more than once annually, we may audit such records relating to your performance under this Agreement.

**10. Indemnification.** You will indemnify, defend, and hold us and our affiliates harmless from and against any and all (a) third party claims, demands, actions, damages, and other liabilities arising from your breach of this Agreement or for bodily injury, death, or property damage you cause; and (b) claims, demands, actions, damages, penalties, and other liabilities arising from your failure to pay applicable taxes and to pay wages and benefits to your employees.

**11. Warranties.** You represent and warrant that you will: (a) provide Services and work product in a professional and workmanlike manner that conforms with industry standards and applicable work order requirements; (b) comply with all applicable statutes, laws, rules, and regulations; (c) perform Services and provide work product that will not infringe the copyrights, patents, trade secrets, or other intellectual property rights of any third party; (d) not use your own proprietary materials in the Works without our prior written consent and an appropriate perpetual license to us; and (e) comply with our and our customers' regulations and policies.

**12. Limitation of Liability.** EXCEPT FOR YOUR INDEMNIFICATION OR CONFIDENTIALITY OBLIGATIONS OR YOUR BREACH OF OUR INTELLECTUAL PROPERTY RIGHTS: (A) THE CUMULATIVE AGGREGATE LIABILITY OF EACH PARTY AND ALL OF ITS AFFILIATES TO THE OTHER PARTY AND ALL OF ITS AFFILIATES FOR EACH WORK ORDER RELATED TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF THE FEES PAID OR PAYABLE BY US TO YOU FOR SERVICES PURSUANT TO THE WORK ORDER THAT IS THE SUBJECT OF THE DISPUTE; AND (B) IN NO EVENT WILL EITHER PARTY OR ANY OF ITS AFFILIATES BE LIABLE TO THE OTHER PARTY OR ANY OF ITS AFFILIATES FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF SUCH PARTY OR ANY OF ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF AN AGREED REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR IS HELD UNENFORCEABLE FOR ANY OTHER REASON.

**13. Other Provisions.** Each party will treat the other party's confidential information with the same care as it treats its own confidential information and, upon termination of this Agreement, will return to the other party any of its confidential information under its control. Confidential information includes, without limitation, information of our customers, employees, and suppliers. We are a federal contractor. As a result, but only if applicable, the Equal Opportunity Clauses set forth in 41 C.F.R. parts 60-1.4(a), and the employee notice found at 29 C.F.R. Part 471, Appendix A to Subpart A are incorporated by reference herein. In addition, but also only if applicable, **you will abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination**

**against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.** This language is provided as part of our compliance with the applicable Executive Orders, statutes and regulations regulated by the Department of Labor. You will not assign, subcontract, or transfer this Agreement or any work order without our prior written consent. Neither party will be responsible for delay of performance due to causes beyond its control. Except as required to perform Services, you will not use our or our customers', partners', or employees' name or logo without our prior written consent. Except for hiring employees (or agents) responding to publicly advertised job announcements, during the term of this Agreement and for one (1) year following termination of this Agreement, neither party will hire or directly or indirectly solicit any employee (or agent) of the other party. You are an independent contractor for us and no joint venture, partnership, employment, or agency relationship exists between you and us. All notices will be in writing and will be deemed given when: (a) personally delivered; (b) sent by electronic mail; or (c) sent by a commercial overnight courier. You will provide notices to MicroStrategy Incorporated, Attn: General Counsel, 1850 Towers Crescent Plaza, Tysons Corner, Virginia 22182, United States; email: [crequest@microstrategy.com](mailto:crequest@microstrategy.com). This Agreement will be governed by the laws of the Commonwealth of Virginia without regard to the choice or conflicts of law provisions of any jurisdiction. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement, the parties' relationship under it or the Services will be subject to the exclusive jurisdiction of the state and federal courts with jurisdiction over Fairfax County, Virginia. Both parties irrevocably consent to the exclusive jurisdiction of and venue in such courts and waive any right to a jury trial in any such proceeding. As between this Agreement and a work order, the latter prevails but only with respect to that work order. If any provision of this Agreement is held to be unenforceable, then such provision will be construed, as nearly as possible, to reflect the parties' intentions with all other provisions remaining in full force and effect. The failure of either party to enforce any right in this Agreement will not constitute a waiver of such right unless agreed to in writing by the waiving party. Any provision of this Agreement that would reasonably be expected to survive will survive the termination of this Agreement or a work order. This Agreement comprises the entire agreement between the parties and supersedes all, written or oral, prior or contemporaneous negotiations, discussions, agreements, or statements. This Agreement may only be amended by a written document signed by both parties.