

**PROFESSIONAL SERVICE AGREEMENT**  
(03-2021)

**IMPORTANT:** DO NOT EXECUTE THE PROFESSIONAL SERVICES ORDER FORM UNTIL YOU HAVE READ THIS SERVICES AGREEMENT. This is an agreement between you (“Client”) and Precisely Europe Software and Data Limited or the Affiliate indicated in the Professional Services Order Form (“PRECISELY”). By executing the Professional Service Order Form, you are agreeing to the terms set forth herein (the “Agreement”). IF YOU ARE NOT WILLING TO BE BOUND BY THIS AGREEMENT, DO NOT EXECUTE THE PROFESSIONAL SERVICES ORDER FORM.

**1. Definitions.** As used in this Agreement, the following terms have the meanings set forth below:

“**Affiliate**” means an entity that Controls, is Controlled by or is under common Control with Client or PRECISELY;

“**Control**” or “**Controlled**” means the ownership of more than fifty percent (50%) of an entity’s stock or other voting interest;

“**Data controller, personal data, and processing**” are as set out in the Data Protection Legislation in force at the time.

“**Data Protection Legislation**” means (i) the Data Protection Act 1998, until the effective date of its repeal; (ii) the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any national implementing laws, regulations and secondary legislation, for so long as the GDPR is effective in the UK, and (iii) any successor legislation to the Data Protection Act 1998 and the GDPR, in particular the Data Protection Bill 2017-2019, once it becomes law.

“**Deliverable(s)**” means any computer software, written documentation, reports or materials developed by PRECISELY specifically for Client pursuant to a PSOF;

“**PSOF**” means a Professional Services Order Form executed by the parties that references this Agreement and describes the Services and Deliverables;

“**Services**” means the consulting services to be performed by PRECISELY as described in the PSOF; and

“**Warranty Period**” means the thirty (30) day period following completion of the Services.

**2. Services.**

a) From time to time during the term of this Agreement, Client may obtain Services by entering into one or more PSOFs, which will become effective when executed by both parties. Each PSOF will constitute a separate contract between the parties, and will be governed in all respects by the terms of this Agreement and the applicable PSOF. Any conflict between the terms of a PSOF and this Agreement will be resolved in favor of the PSOF. Affiliates of Client and PRECISELY are authorized to place PSOFs under this Agreement (each a “Client Affiliate”) with PRECISELY or an Affiliate of PRECISELY (each a “PRECISELY Affiliate”). By submitting a PSOF under this Agreement, Client Affiliate is deemed to agree to be bound by the terms of this Agreement. The term “PRECISELY” as used in this Agreement and the applicable PSOF will be deemed to refer to either PRECISELY or the PRECISELY Affiliate entering into the PSOF, and the term “Client” as used in this Agreement and the applicable PSOF will be deemed to refer to either Client or such Client Affiliate entering into the PSOF.

b) PRECISELY will perform the Services in accordance with this Agreement and the PSOF. PRECISELY is not obligated to

provide any Services unless set out in the PSOF. Unless otherwise set out in the PSOF or as agreed to by the parties, PRECISELY will commence performance of the Services fifteen (15) business days following execution of the PSOF and the Services will be performed at PRECISELY’s offices. Unless otherwise stated in the PSOF, Services will be performed and billed in contiguous eight (8) hour increments. Changes or delays in the work schedule originating with Client are subject to the project change procedure and may result in an increase in fees.

c) For a time and materials engagement, PRECISELY estimates that the Services will be completed in approximately the number of hours set out in the PSOF. PRECISELY does not represent, however, that the Services will be completed within the number of hours specified therein. Any estimates provided in the PSOF, including expected hours to complete the Services and any timeline provided by PRECISELY, are based on known functional requirements and technical environments as of the effective date of the PSOF.

d) PRECISELY grants Client a non-exclusive, non-transferable, royalty-free, perpetual license to use the Deliverables on behalf of and for the benefit of Client. PRECISELY retains all right, title and interest to the Deliverables except for those rights expressly granted to Client and reserves all rights not otherwise expressly granted herein. Deliverables and Services are deemed accepted upon delivery unless otherwise set forth in a PSOF.

e) Any modifications to the Services must be in writing and signed by authorized representatives of each party. The modifications may be set forth in a project change request or other document agreed to by the parties in writing. PRECISELY personnel performing Services at Client’s offices will comply with Client’s policies and procedures in effect at such location.

**3. Fees; Expenses.**

a) **Fees.** Client will pay PRECISELY the fees set out in the PSOF or other executed order document (as applicable) for all Services performed by PRECISELY, and all taxes related thereto. All fees are due within thirty (30) days of receipt of an invoice from PRECISELY. Client will pay a late payment charge of 1.5% per month on any fees not paid by the due date.

b) **Billing Schedule.** Fees will be invoiced to Client based on one of the following billing options, as indicated in the PSOF:

(i) **Time and Materials:** For engagements with a time and materials billing schedule, invoices will be issued monthly in arrears as Services are performed, based on the hourly or daily rate set forth in the PSOF or other executed order document. If a minimum number of hours are indicated on the PSOF (“Minimum Hours”), Client will pay for and permit PRECISELY to perform the indicated number of Minimum Hours. Should any Minimum Hours not be performed within ninety (90) days of the effective date of the PSOF due to delay, unavailability, or other reason within Client’s control, Client will

promptly pay the fees for such Minimum Hours upon receipt of an invoice by PRECISELY, which will then be credited against the balance of fees due for completed Services as they are performed. If PRECISELY performs Services at Client's request on a weekend or federal holiday (for the country where the Services are being performed or if off-site the country where the PRECISELY resources are performing the Services), Client will pay PRECISELY one and a half (1.5) times the hourly or daily rate for all Services performed on such weekend or federal holiday.

(ii) Retainer Hours: Invoices will be issued to Client based on the number of hours or days indicated as Retainer Hours prior to commencement of any Services, based on the rates set forth in the PSOF or other executed order document. Retainer Hours are then allocated to Services performed upon execution until the Retainer Hours are depleted. All Retainer Hours will be consumed in eight (8) hour increments and must be used within twelve (12) months of the effective date of the original PSOF purchasing the Retainer Hours. If Client fails to use the Retainer Hours within such time period, PRECISELY will not refund the unused pre-paid fees and will be under no obligation to perform the Services.

(iii) Fixed Cost: Invoices will be issued upon delivery of milestones, or in accordance with a billing schedule set forth in the PSOF or other executed order document.

c) Client will also pay for all reasonable travel-related and out-of-pocket expenses incurred by PRECISELY in the performance of the Services in accordance with PRECISELY's corporate travel and expense policy, which will be billed on a monthly basis and due thirty (30) days following date of invoice.

d) PRECISELY will provide Client with a monthly project status report accounting for the number of hours of Services performed in the prior month, and the expenses incurred in performance of the Services.

#### **4. Client Obligations.**

a) Client will provide any assistance reasonably required by PRECISELY to perform the Services, including timely review of plans and schedules for the Services and reasonable access to Client's offices for Services performed onsite.

b) Client will designate a project manager for the Services. The project manager will have the authority to make decisions on behalf of Client with respect to changes in the Services, resource allocation, expenditures, resolution of issues, scope changes and other matters involving the Services.

c) Client will maintain a back-up of any data or data files provided to PRECISELY.

d) Client will be responsible for securing all licenses for third party technology necessary for PRECISELY to perform the Services (including the right for PRECISELY to use such technology), and will be responsible for the performance of any third party providing goods or services to Client related to the Services, including such third party's cooperation with PRECISELY.

#### **5. Warranty.**

a) The Services will be performed in a professional manner in accordance with generally accepted industry standards for the software consulting industry. PRECISELY will use reasonable commercial efforts to complete the Services in accordance with the Professional Services Agreement EMEA url (03-2021)

PSOF. If the Services fail to comply with this warranty during the Warranty Period, Client will promptly notify PRECISELY in writing specifying in reasonable detail any alleged non-conformities in the Services. Upon such notice, PRECISELY will, as Client's remedy, promptly re-perform any such Services in accordance with the PSOF and this Agreement.

b) Except for the express warranties set forth in this Agreement, PRECISELY and its third party suppliers disclaim all other warranties and conditions, express or implied, with respect to the Services provided under this Agreement, including but not limited to, any warranty of satisfactory quality, merchantability, fitness for a particular purpose, accuracy, reliability, course of dealing, course of performance or usage in trade.

**6. Confidentiality.** During performance of the Services, each party may receive Confidential Information of the other party.

a) "Confidential Information" means all confidential and proprietary information of either party ("Disclosing Party"), including but not limited to, each party's and its Affiliates: (i) customer and prospect lists, names or addresses, existing agreements with Disclosing Party and business partners; (ii) pricing proposals, financial and other business information, data processes and plans; (iii) research and development information, analytical methods and procedures, hardware design, technology (including the Deliverables); (iv) financial information or personnel data; (v) information concerning the customers and potential customers of either party; (vi) business practices, know-how, marketing or business plans; (vii) this Agreement and the PSOF, technical documentation, user manuals, and training materials; and (viii) any other information identified in writing as confidential or information that the receiving party knew or reasonably should have known was confidential, in each case that is disclosed to the other party ("Receiving Party") or to which the Receiving Party gains access in connection with performance of the Services.

b) The Receiving Party agrees: (i) to hold the Disclosing Party's Confidential Information in strict confidence, apply at least the standard of care used by the Receiving Party in protecting its own Confidential Information, but not less than a reasonable standard of care, and not to disclose such Confidential Information to any third party; and (ii) without the written permission of the Disclosing Party, not to use any Confidential Information of the Disclosing Party except as reasonably required to exercise its rights or perform its obligations under this Agreement and the PSOF. Each party agrees to cause its employees, subcontractors, agents and, if permitted, Affiliates, who require access to such information to abide by such obligations.

c) The foregoing obligations do not apply to information that: (i) is already public or becomes available to the public through no breach of this Section 6; or (ii) was in the Receiving Party's lawful possession before receipt from the Disclosing Party; or (iii) is lawfully received independently from a third party who is not bound by a confidentiality obligation; or (iv) is independently developed by or on behalf of the Receiving Party without use of any Confidential Information.

d) If a Receiving Party is compelled to disclose the Confidential Information by a governmental agency or a court of law having proper jurisdiction, the Receiving Party will give the Disclosing Party reasonable notice as permitted by law to enable such party to try to protect the confidentiality of the Confidential Information.

e) Upon written request of the Disclosing Party, the Receiving Party agrees to promptly return or destroy all Confidential Information

in its possession, and certify its destruction in writing, provided, however, that the Receiving Party may retain one copy of the returned or destroyed items for archival purposes in accordance with its records retention policies and subject to this Section 6.

f) Disclosing Party may be irreparably damaged if the obligations under this Section 6 are not enforced and as such may not have an adequate remedy in the event of a breach by Receiving Party of its obligations hereunder. The parties agree, therefore, that Disclosing Party is entitled to seek, in addition to other available remedies, an injunction restraining any actual, threatened or further breaches of the Receiving Party's obligations under this Section 6 or any other appropriate equitable order or decree.

## **7. Indemnification.**

a) PRECISELY will indemnify, defend and hold Client, its officers, directors and employees, harmless from all losses, damages, and reasonable costs and expenses to the extent they arise out of a claim by a third party that the Deliverables or Services, as delivered by PRECISELY, infringe or misappropriate any copyright, trade secret, trademark or patent registered or valid within the country the Deliverables are authorized to be used. PRECISELY will have control of the defense and will defend at its own expense, any claim or litigation to which this indemnity relates, including the right to settle any such claim. Client must notify PRECISELY promptly of any such claim and provide reasonable cooperation to PRECISELY, upon PRECISELY's request and at PRECISELY's cost, to defend such claim. PRECISELY will not agree to any settlement which requires acknowledgment of fault or an incurred liability on the part of an indemnified party not otherwise covered by this indemnification without the indemnified party's prior consent. Client may elect to participate in the defense of any claim with counsel of its choosing at its own expense.

b) If the Deliverables are subject to a claim of infringement or misappropriation, or if PRECISELY reasonably believes that the Deliverables may be subject to such a claim, PRECISELY will: (i) replace the Deliverables with a functional non-infringing equivalent; (ii) modify such Deliverables while retaining substantively equivalent functionality; or (iii) procure at no cost to Client the right to continue to use such Deliverables. If, however, PRECISELY determines that none of the foregoing alternatives are commercially reasonable, PRECISELY may terminate Client's license to the Deliverables and PRECISELY will, as Client's remedy, refund to Client the fees paid for such Deliverable.

c) PRECISELY will have no obligation to defend or indemnify Client under this Section 7 if the infringement or misappropriation results from: (i) modifications to the Deliverables by anyone other than PRECISELY; (ii) combination of the Deliverables with Client's equipment or non-PRECISELY software programs if such claim of infringement or misappropriation would have been avoided had such combination, operation or use not occurred; (iii) Client's failure to implement modifications (which if delivered to Client expressly to avoid infringement, will be delivered at no additional cost to Client and which will provide substantially the same functionality as the infringing or potentially infringing Deliverables); or (iv) Services performed or Deliverables developed at the direction of Client, where Client specifies the means, manner or method of performing the Services or developing the Deliverables and to the extent PRECISELY did not exercise its independent judgment and discretion in performing the Services or developing the Deliverables.

## **8. Limitation of Liability.**

a) Except as set out in 8(c) below, each party's total liability to the other party, in tort (including negligence), contract or otherwise relating to this Agreement or a PSOF, will be limited to 110% of the amount of fees payable by Client under such PSOF.

b) Except as set out in 8(c) below, under no circumstances will either party be liable for any (i) loss or damage to profits, sales, business, goodwill or anticipated saving; or (ii) business interruption or lost data; or (iii) punitive, special, consequential, incidental or indirect damages; even if such party has been advised of the possibility of such loss or damage.

c) Nothing in this Agreement shall exclude, limit or restrict either party's liability for (i) death or personal injury resulting from the negligence of a party; (ii) fraud or fraudulent misrepresentation; (iii) PRECISELY's liability under Section 7 (Indemnification); or (iv) any other cause of action which cannot be limited or excluded under applicable law.

## **9. Term of Agreement.**

a) This Agreement will commence on the Effective Date and will continue in effect until terminated as set forth in this Agreement or as agreed to by the parties. Each PSOF will be effective as of the effective date of the PSOF and will remain in effect until the Services are completed, or the termination date set out in the PSOF (the "Termination Date"), whichever is later. If no specific Termination Date is designated in the PSOF, Client may terminate the PSOF and this Agreement upon thirty (30) days written notice to PRECISELY.

b) Either party may terminate this Agreement and/or any PSOF immediately upon written notice to the other party for cause, if: (i) such party is in breach of a material provision of this Agreement or the PSOF and fails to cure such breach within fifteen (15) days following written notice of such breach; or (ii) the other party ceases to conduct business in its ordinary course; is adjudged bankrupt or insolvent under applicable law; has made a general assignment for the benefit of creditors; files or becomes subject as a debtor to a petition in bankruptcy for liquidation or reorganization; becomes otherwise insolvent; or admits its inability to pay its debts generally as they become due. Any PSOF entered into before the termination of this Agreement will remain in full force and effect for its entire term and this Agreement will remain in full force and effect for purposes of the PSOF until the termination or expiration of such PSOF,

c) Upon the effective date of termination of this Agreement or a PSOF, PRECISELY will cease performance of the Services. Client will pay PRECISELY for all Services performed prior to the date of termination plus any additional fees that may be due under the PSOF, including the fees for the balance of any unused Minimum Hours (as applicable). For Services performed on a fixed-cost basis, should the PSOF be terminated prior to delivery of any milestone or Deliverable, Client will pay PRECISELY at the hourly rate for all Services performed up to the date of termination as set forth in the PSOF. If no hourly rate is designated, Client will pay PRECISELY's then standard hourly rate for such Services.

d) Sections 3 (Fees, Expenses), 5(b) (Warranty), 6 (Confidentiality), 7 (Indemnification), 8 (Limitation of Liability), 9 (Term of Agreement), 11 (Non-Solicitation) 16 (General) and 17 (Applicable Law), and any other provision which by its nature it intended to survive termination will survive termination of this Agreement indefinitely or to the extent set out therein.

## **10. Data Protection.**

a) Both parties will comply with all applicable requirements of the Data Protection Legislation.

b) Client and PRECISELY agree that the PRECISELY will not be processing any personal data on behalf of the Client as data controller.

c) PRECISELY will collect, use, disclose, transfer, and store personal information when needed to administer this Agreement and for our operational and business purposes, as further described in PRECISELY's Privacy Statement which is found here: <https://www.precisely.com/legal/privacy-policy>

**11. Non-Solicitation.** During the term of this Agreement and for twelve (12) months thereafter, Client will not solicit for employment, nor knowingly employ (either as an employee, contractor or agent), any of PRECISELY's employees or subcontractors.

**12. Force Majeure.** Except for Client's payment obligations, neither party is responsible from any delay or failure to perform resulting from causes beyond its reasonable control.

**13. Independent Contractor.** Each party will act as an independent contractor and employees of each party will not be considered to be employees of the other party. No agency, partnership, joint venture or other joint relationship is created by this Agreement. Neither party may make any commitments binding on the other, nor may either party make any representation that they are acting for, or on behalf of, the other. Each party assumes full responsibility for the actions of its personnel while performing the Services and such party will be solely responsible for the supervision, daily direction, control of its personnel, and for the payment of all of their compensation.

**14. Assignment.** Client is not permitted to transfer or assign (by operation of law or otherwise) any of its rights or obligations under this Agreement without the prior written consent of PRECISELY, which consent will not be unreasonably withheld, delayed or denied. Any such transfer or assignment without PRECISELY's written consent will be void and of no force and effect.

**15. Publicity.** Neither party will use the name of the other party in publicity releases or similar activity without the consent of the other party, except PRECISELY may include Client's name in any PRECISELY client list.

**16. General.**

a) No waiver of any breach of any provision of this Agreement or the PSOF by either party or the failure of either party to insist on the exact performance of any provision of this Agreement or the PSOF will constitute a waiver of any prior, concurrent or subsequent breach of performance of the same or any other provisions hereof, and no waiver will be effective unless made in writing.

b) Any notice alleging a breach of this Agreement shall be in writing and shall be sent by overnight courier or delivered in person to the party's address set forth in this Agreement. Any other notice required to be provided under this Agreement may be sent by e-mail or regular post or mail to the individual designated by Client or PRECISELY. Any notice delivered to PRECISELY hereunder shall be sent to the attention of "Contract Administration."

c) If any provision of this Agreement or the PSOF, or portion thereof, is held to be invalid, illegal or unenforceable by a court of Professional Services Agreement EMEA url (03-2021)

competent jurisdiction, such provision will be severed and the remaining provisions of the Agreement or PSOF will remain in full force and effect.

d) Upon ten (10) days written notice, PRECISELY or its designated third party may verify Client's compliance with the terms of the Agreement and applicable PSOF at all locations and for all environments in which Client uses the Deliverables. Such verification will take place no more than one (1) time per twelve (12) month period during normal business hours in a manner which minimizes disruption to Client's work environment. PRECISELY may use an independent third party under obligations of confidentiality substantially similar to those set forth in this Agreement to provide assistance. PRECISELY will notify Client in writing if any such verification indicates that Client has used the Deliverables in excess of the use authorized by the Agreement. Client agrees to promptly enter into an appropriate licence agreement for the Deliverables and pay all associated fees directly to PRECISELY for the charges that PRECISELY specifies including, but not limited to: (i) any excess use; (ii) Maintenance and/or subscription fees for the excess use for the duration of such excess or (2) two years, whichever is less; and (iii) any additional charges determined as a result of such verification.

e) Rights of Third Parties. Except as provided in this Agreement that a third party may enforce or rely upon a term of this Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement. Nothing in this Agreement shall affect any right or remedy of a third party that exists or is available other than as a result of the aforementioned Act.

f) Client agrees not to export, re-export, or provide the Deliverables to: (i) any country to which the United States or any other applicable government or agency has embargoed goods; (ii) any person on the U.S. Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department's Denied Persons List; or (iv) any person or entity where such export, re-export or provision violates any other United States or other applicable export control or regulation.

**17. Applicable Law.** This Agreement shall be governed by the laws of England. The parties hereby consent to the exclusive jurisdiction of the English courts.

**18. Entire Agreement.**

a) This Agreement constitutes the entire agreement between PRECISELY and Client, and supersedes all prior agreements, proposals, purchase orders, understandings, representations or correspondence relevant to the subject matter hereof.

b) Client has not been induced to enter into this Agreement or the PSOF by any representations or promises not specifically stated herein. This Agreement and any PSOF shall be signed by authorized representatives of PRECISELY and Client. In the event of a conflict between this Agreement and a PSOF, the terms of the PSOF shall control.