

## PROFESSIONAL SERVICES TERMS AND CONDITIONS

These Professional Services Terms and Conditions (these "PS Terms"), along with any terms specified in an ordering document or Statement of Work signed by a SevOne customer ("Customer") and SevOne, form the entire agreement between the two parties related to Services (as defined below) delivered by SevOne. However, if Customer and SevOne have executed a separate written agreement ("Agreement") regarding delivery of Services, the terms of that Agreement will supersede these PS Terms.

### 1. SERVICES; ACCEPTANCE

**1.1 Statement of Work.** From time to time, Customer may order certain professional services pursuant to a SOW that is agreed by the parties in writing, that describes the specific Services to be performed by SevOne and any work product to be delivered by SevOne (such services, the "Services", and such ordering document, the "SOW"). Each SOW will form a part of these PS Terms, and will be subject to the terms and conditions contained herein. As used with respect to Services, a "service day" is defined as any eight (8) hour period of work during the regular business hours of 9:00 AM to 7:00 PM local time, Monday through Friday, excluding SevOne holidays, at the SevOne location providing the Services.

**1.2 Acceptance.** Provided the Services under the SOW are subject to acceptance, following SevOne's delivery of an applicable deliverable, Customer shall provide written acceptance ("Acceptance") or notification of exceptions to any such deliverable within five (5) business days (the "Acceptance Period"), based on conformity of such deliverable with the specifications set forth in this SOW. Within five (5) business days of receiving a notice of exception, SevOne shall submit a plan to correct any deficiencies in the affected deliverable and shall use commercially reasonable efforts to correct and re-submit the deliverable for acceptance ten (10) business days from the date of receipt of notice from Customer. A re-submitted deliverable shall be subject to the same acceptance procedure. For deliverable content previously submitted, no new exceptions shall be identified for update in subsequent reviews that could have been reasonably included in a previous notification. In the event Customer fails to provide a notice of Acceptance or notification of exceptions by the end of the Acceptance Period, Customer shall be deemed to have accepted the applicable deliverable(s).

Certain SOWs may specifically exclude any Acceptance. In addition, the following Services shall not be subject to Acceptance:

1. Time and Materials; and
2. Resident Engineer Services.

**1.3 Authorized Partners.** Customer may purchase Services hereunder directly from SevOne or from an authorized SevOne reseller or partner (each, an "Authorized Partner"). If Customer purchases Services from an Authorized Partner, the terms and conditions set forth in Section 2, as well as any discounts or pricing offered by SevOne, will not apply and the purchase terms and prices for such Customer purchases from an Authorized Partner will be negotiated solely between Customer and the applicable Authorized Partner.

### 2. FEES

SevOne shall invoice Customer for all fees due as set forth in a SOW, which are due and payable net thirty (30) days from the date of invoice. In addition, Customer will reimburse SevOne for all reasonable travel and related expenses incurred in the performance of the SOW. Customer shall pay or reimburse all federal, state and local taxes (exclusive of taxes on SevOne's net income) and assessments arising on or measure by amounts payable to SevOne under the SOW, or furnish SevOne with evidence acceptable to the taxing authority to sustain an exemption therefrom.

### 3. WARRANTY

SevOne warrants that the Services will be performed in a professional and workmanlike manner consistent with industry practice. Customer's sole and exclusive remedy for any breach of the foregoing warranty, provided written notice is provided not later than thirty (30) days after completion of the applicable Services, is SevOne's re-performance of such Services.

### 4. CUSTOMER RESPONSIBILITIES

SevOne's performance of Services is dependent upon Customer's management and fulfillment of its responsibilities. Any delay in performance of Customer's responsibilities may result in additional charges and/or delay of the completion of the Services. Such additional charges and/or delay will be handled in as part of a Change Order. Customer will:

1. Make appropriate personnel available to assist SevOne in the performance of its responsibilities.
2. Provide all documentation required for the project in a timely manner and identify key personnel who can provide additional information on relevant plans that may impact implementation of the solution.
3. If a change control process exists, assign appropriate party to deploy built components into production environment.

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4. Provide an internal project manager who will facilitate the exchange of information, and act as a liaison to work with SevOne and Customer's internal or contract staff.
5. Within five (5) days upon request, provide SevOne access to requested infrastructure elements to allow SevOne to verify and validate hardware, software, versions and configurations. In addition, Customer will, on a timely basis, provide full system access, and security privileges, to relevant appliances and servers to complete the work required.
6. Be responsible for the acquisition, installation and configuration of any hardware required to support software outlined in the SOW.
7. Provide dataflow guidance, mapping details and data modeling information as required from relevant subsystems.
8. The SevOne appliance(s) are required to be already delivered on-site, racked and stacked in the desired location, with physical network connectivity, before the actual day of the installation.
9. Provide VPN remote access to the Customer network as SevOne may perform work remotely as much as is practical.
10. Provide safe access, suitable office space, supplies, furniture, high-speed connectivity to the Internet, and other facilities for SevOne's personnel while working at the location(s) specified herein or otherwise agreed by the parties.
11. Ensure that current maintenance and license agreements are in place with applicable vendors for those Customer-provided products and services upon which SevOne is relying to provide the Services described herein.
12. During and upon completion of the Service, it will be expected that Customer will use SevOne Product Support to resolve any ongoing technical issues related to Product.
13. Obtain any necessary consent and take any other actions required by applicable laws, including but not limited to data privacy laws, prior to disclosing any of its employee information to SevOne.
14. Be responsible for the content of any Customer database which utilizes the SevOne solution, the selection and implementation of controls on its access and use, backup and recovery and the security of the stored data. This security will also include any procedures necessary to safeguard the integrity and security of software and data used in the Services from access by unauthorized personnel.
15. Be responsible for the identification and interpretation of any applicable laws, regulations, and statutes that affect Customer's existing application systems, programs, or data to which SevOne will have access during the Services. It is Customer's responsibility to ensure the systems, programs, and data meet the requirements of those laws, regulations and statutes.

## **5. OWNERSHIP; LICENSE**

**5.1 Ownership of Work.** All deliverables provided during the performance of Services, including, but not limited to, written materials, including programs, files, specifications and documentation and any ideas, processes and improvements, work product, patents, information, inventions or copyrightable material that are produced by SevOne or any of its employees or consultants prior to or during the course of its performance hereunder or results from the performance of any Services by SevOne (the "Work") shall be the sole property of SevOne and all intellectual property rights related thereto constitute trade secrets and proprietary data of SevOne and, and nothing in this Agreement will be construed to convey any title or ownership rights to Customer. Customer is granted a license to use the Work to the extent necessary to obtain the benefits contemplated by the license of the software granted under Customer's separately executed license agreement with SevOne, or as otherwise set forth in the SOW. Customer may not copy, modify, reverse engineer, decompile, disassemble or create derivative works based on the Work, except as permitted by applicable law, and to the extent that SevOne is not permitted by such law to exclude or limit such rights.

**5.2 Customer Data.** Customer will retain ownership to any of Customer's data, reports and documentation provided by Customer to SevOne in connection with these PS Terms or any SOW hereunder.

**5.3 Nonexclusive Relationship.** Nothing in the SOW will be construed as to preclude SevOne from developing, using, marketing or otherwise exploiting products, services, hardware, software or other intellectual property that may be competitive with any deliverables prepared for Customer hereunder, irrespective of whether such intellectual property is similar or related to the deliverables developed under the SOW.

## **6. TERM AND TERMINATION**

**6.1 Timing of Services.** SevOne will perform the Services during the period of time set forth in the SOW.

**6.2 Termination.** Each party will have the right to terminate any SOW (and all Services thereunder) if the other party breaches any material term of such SOW or these PS Terms with respect to such SOW and fails to cure such breach within thirty (30) days after receipt of written notice thereof. SevOne will be entitled to payment with respect to charges earned and reimbursable expenses and any other termination related charges as set forth in a SOW incurred up to the effective date of the termination. In addition, Customer will pay all reasonable costs incurred by SevOne that are reasonably required in connection with the orderly cessation of the Services, including any fees for which SevOne has become committed to the extent it is unable to terminate its commitment without cost or penalty.

**6.3 Survival.** Sections 2, 3, 5, 6, 7 and 8 of these PS Terms shall survive the termination, cancellation or expiration of the SOW.

## **7. CONFIDENTIALITY**

**7.1 Definition of Confidential Information.** For purposes of these PS Terms, the term “Confidential Information” means all information of either party that is not generally known to the public, whether of a technical, business or other nature (including, without limitation, trade secrets, know-how and information relating to the technology, strategic partners, customers, business plans, promotional and marketing activities, finances and other business affairs of such party), that is disclosed by one party to the other party or that is otherwise learned by the receiving party in the course of its discussions or business dealings with, or its physical or electronic access to the premises of, the disclosing party, and that has been identified as being proprietary and/or confidential or that the receiving party by the nature of the circumstances surrounding the disclosure or receipt ought to know should be treated as proprietary and confidential. Confidential Information of SevOne also includes the terms, conditions and pricing of these PS Terms and any SOW.

**7.2 Disclosure.** Either party may from time to time disclose (the “Disclosing Party”) to the other party (the “Receiving Party”) certain Confidential Information (as hereinafter defined) received from the Disclosing Party. For a period of seven (7) years from the termination of the SOW, the Receiving Party shall protect the Confidential Information received from the Disclosing Party from unauthorized dissemination, using the same degree of care that the Receiving Party ordinarily uses with respect to its own proprietary information, but in no event with less than reasonable care. The Receiving Party shall use the Confidential Information received from the Disclosing Party only to accomplish the purpose of the SOW, and shall limit the disclosure of the Confidential Information received from the Disclosing Party to the employees or agents of the Receiving Party who have a need to know such Confidential Information for purposes of the SOW, and who are, with respect to the Confidential Information received from the Disclosing Party, bound in writing by confidentiality terms no less restrictive than those contained herein.

**7.3 Exceptions.** The obligations of either party pursuant to this Section 7 shall not extend to any information that the Receiving Party can demonstrate through written documentation was already known to the Receiving Party prior to its disclosure to the Receiving Party, was or becomes known or generally available to the public (other than by act of the Receiving Party), is disclosed or made available in writing to the Receiving Party by a third party having a bona fide right to do so, is independently developed by Receiving Party without the use of any Confidential Information, or is required to be disclosed by process of law, provided that the Receiving Party shall notify the Disclosing Party promptly upon any request or demand for such disclosure

**7.4 Return of Confidential Information.** The Receiving Party shall, upon completion or other termination of discussions with respect to the Confidential Information, or upon termination of the SOW, or upon demand by the Disclosing Party, whichever is earlier, promptly: (a) return to the Disclosing Party any and all Confidential Information in tangible form together with all copies or reproductions thereof; and (b) destroy any notes, memoranda or other documents concerning the Confidential Information and provide a certificate from an officer of Receiving Party certifying to the Disclosing Party that such items have been destroyed.

**7.5 Injunctive Relief.** The parties acknowledge that any breach of this Section 7 may cause immediate and irreparable injury to the non-breaching party and that monetary damages may be inadequate to compensate the non-breaching party for such breach. Having acknowledged the foregoing, the parties agree that, in the event of such breach, the non-breaching party shall be entitled to seek injunctive relief, in addition to all other remedies available to it at law or in equity. This Section in no way limits the liability or damages that may be assessed against the breaching party in the event of a breach of any of the provisions of this Section 7.

## **8. LIMITATION OF LIABILITY; DISCLAIMER**

**8.1** SevOne’s entire liability, and Customer’s sole and exclusive remedy, for any and all claims arising under or in connection with the SOW or related to any item or service provided under or in connection with the SOW, regardless of the form of the action, whether in breach of warranty, contract, tort, strict liability or otherwise will not exceed the aggregate fees actually paid to SevOne under an applicable SOW.

**8.2** IN NO EVENT SHALL SEVONE, NOR ANY OF ITS SUPPLIERS, HAVE ANY LIABILITY TO CUSTOMER OR A THIRD PARTY WITH RESPECT TO OBLIGATIONS UNDER THE SOW (REGARDLESS OF THE FORM OF ACTION, INCLUDING, BUT NOT LIMITED TO ACTIONS FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, RESCISSION AND BREACH OF WARRANTY), OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES AND LOSS OR PROFITS OR OTHER MONETARY LOSS, OR LOSS OR INTERRUPTION OF DATA OR COMPUTER TIME, EVEN IF SEVONE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**8.3** EXCEPT AS EXPRESSLY STATED IN THE SOW, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, REGARDING OR RELATING TO THE SERVICES PROVIDED HEREUNDER OR TO ANY WORK FURNISHED TO CUSTOMER HEREUNDER OR IN CONNECTION HERewith. SEVONE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THOSE OF Confidential

MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING BUT NOT LIMITED TO STATEMENTS REGARDING CAPACITY, SUITABILITY FOR USE OR PERFORMANCE, WHETHER MADE BY SEVONE EMPLOYEES OR OTHERWISE, WHICH IS NOT CONTAINED IN THE SOW, WILL BE DEEMED TO BE A WARRANTY BY SEVONE FOR ANY PURPOSE.

## **9. GENERAL**

Customer may not assign, delegate, sublicense or otherwise transfer its rights or obligations under these PS Terms or an SOW without SevOne's prior written consent. A waiver of any breach(es) will not constitute a waiver of any future breach of a similar or different nature. If any provision of the SOW is deemed illegal or unenforceable, that provision will be severed and the remainder of the SOW will remain in full force and effect. The headings used in the SOW are for convenience only and will not create any rights or obligations or affect the meaning or interpretation of the SOW. The SOW and all matters arising out of or relating to the SOW will be governed by and construed in accordance with the laws of the State of Delaware, U.S.A., excluding all choice of law provisions. Customer acknowledges that the Services and Work may be subject to export controls under applicable export control regulations, including without limitation, the U.S. Export Administration Regulations, and agrees to comply with any such regulations. The SOW (including these PS Terms and Conditions) and any changes thereto, contains the entire agreement between the parties with respect to the subject matter of the SOW and supersedes all other agreements, proposals, representations and other understandings regarding the subject matter of the SOW. The terms and conditions of any purchase order or other instrument issued by Customer or its agent in connection with the SOW that are in addition to or inconsistent with the terms and conditions of this Agreement are null and void and will not be binding on SevOne. All notices permitted or required under the SOW will be sent to the recipient party's address stated in the SOW (as may be modified in writing) by certified mail, return receipt requested, or receipted overnight carrier. Alterations or modifications of the SOW will be valid only if made in a writing signed by both parties. Except as otherwise provided herein, if the performance of any obligation hereunder (other than the making of payments hereunder) is prevented, restricted or interfered with by reason of any event, act or condition beyond the reasonable control of the affected party, the party so affected, upon written notice to the other party, will be excused from such performance to the extent of such prevention, restriction or interference.