



GENERAL TERMS AND CONDITIONS FOR MICROSTRATEGY MARKETPLACE PARTNERS

August, 2024

These General Terms and Conditions for MicroStrategy Marketplace Partners ("Marketplace Partner Terms & Conditions") apply to any Order entered into between MicroStrategy Incorporated or its affiliate ("**MicroStrategy**" or "**we,**" "**us,**" "**our**") and the entity or person ("**you,**" "**your**", "**Marketplace Reseller**") ordering our products ("Products") and/or services ("Services") for resale on the Microsoft Azure Marketplace, Google Cloud Marketplace, or Amazon Web Services Marketplace (each, a "Marketplace").

1. Your Role as a Marketplace Reseller. We authorize you to resell the Products and Services included in the Order form ("Order") to which these Marketplace Partner Terms & Conditions are incorporated ("Marketplace Transaction") to the customer specified therein ("Customer"). We will provide the Products and Services in accordance with these Marketplace Partner Terms & Conditions, each relevant Order, and the then current version of the technical documentation or user manuals normally distributed or made available by us in connection with a Product ("Documentation"), including the MCE Service Guide and Technical Support Guide available at microstrategy.com, as modified from time to time by us.

2. Ordering Processes, and Payment.

(a) The Marketplace Transaction will be directly between the Customer and you. By issuing an offer to the Customer in the Marketplace, based upon the Order the we post on the Marketplace for the Marketplace Transaction, you will be deemed to have accepted the terms of such Order, provided however that such Order will only become legally binding upon the Customer's acceptance in the Marketplace of your resale offer and the associated end user license agreement we post to the Marketplace ("EULA"), at which point ("Order Effective Date") the Order will be firm and not subject to cancellation, return, refund or offset by you. All amounts payable under such Order (including applicable taxes) will be paid by the Marketplace in accordance with the Marketplace terms and conditions.

(b) Following the Order Effective Date, we will deliver the Products and Services listed on the Order to the Customer.

3. Certain Obligations and Restrictions. You will not access, use, or otherwise make available any Product or Service in any manner or for any purpose not authorized by these Marketplace Partner Terms & Conditions, including in a manner contrary to applicable law; (ii) modify, reverse engineer, decompile or create derivative works of any portion of the Products or Services, except as provided in the Documentation, or except to the extent permitted by applicable law; (iii) interfere with or disrupt the integrity or performance of any Product or Service or attempt to gain unauthorized access to a Product or Service or any related systems or networks; (iv) use the Products or Services to develop or train any product or service that is competitive with our business or offerings; (v) make available to any third-party any analysis of the operation or benchmarking of the Products or Services without our prior written consent; (vi) use any Product or Service to provide time-sharing services, software-as-a-service offering, service bureau services or similar services or (vii) use the Products or Services to store or transmit material in violation of third-party privacy rights or that is infringing or otherwise unlawful or tortious or that constitutes a virus, Trojan horse, worm, time bomb, cancelbot, corrupted file, or any other similar software or program.

4. Intellectual Property Ownership. We, our affiliates and our licensors will own all right, title and interest in and to the Products and Services. Except for the limited rights set forth in these Marketplace Partner Terms & Conditions, no right, title, or interest in or to any Products or Services is granted to you. You may not remove or obscure any intellectual property or proprietary rights notices or legends contained in or affixed to any output of the Products or Services.

5. Termination. Either party may terminate these Marketplace Partner Terms & Conditions upon written notice identifying the cause if the other party has breached a material provision of these Marketplace Partner Terms & Conditions and fails to cure such breach within thirty (30) days following the date of such notice of breach. Upon termination of these Marketplace Partner Terms & Conditions, all licenses and rights granted to you will terminate and all fees that you are obligated to pay as of the date of termination will be immediately due and payable. When a license terminates, you will immediately cease using the related Product or Service. For clarity, such termination means that, except as otherwise provided herein, your rights granted hereunder for all licenses will automatically terminate, but Customers' rights pursuant to their EULAs (if any) shall not terminate.

6. **Export Control.** You will comply with all applicable import, re-import, sanctions, anti-boycott, export, and re-export control laws and regulations, including all such laws and regulations that apply to a U.S. company, such as the Export Administration Regulations (EAR) and the economic sanctions programs implemented by the Office of Foreign Assets Control (“OFAC”). You acknowledge that the direct or indirect transfer of any Product or Service contrary to United States law or any other applicable law is prohibited. You warrant that (i) you are not a Restricted Party or located in a Restricted Country; (ii) you are not controlled by or acting on behalf of any Restricted Party or anyone headquartered or located in a Restricted Country; and (iii) neither you nor any of your employees, agents or contractors will transfer (including sell, resell, sublicense, or otherwise distribute) or allow any Product or Service to be so transferred to a Restricted Party or Restricted Country. You shall not sell, export, re-export, transfer, divert, or make available any Products or Service to any Customer or for any end use specified in 15 C.F.R. Part 744 of the EAR, including but not limited to the design, production, or use of nuclear, missile, or chemical and biological weapons activities or systems. “Restricted Party” means any person or entity that is (i) listed on any of the lists of persons or entities maintained by the United States government or any other applicable government that prohibit such persons or entities from receiving exports or services; (ii) owned 50% or more by one or more parties on an OFAC list; or (iii) a national or resident of, or an entity or governmental authority in a Restricted Country.
7. **Product Warranty.** We warrant and covenant during the term of each Order, that (i) the Products will perform in substantial conformance with the technical specifications in the Documentation, (ii) the functionality of each such Product will not be materially reduced by us, and (iii) we will scan such Products using a recognized virus scanning program and we will use commercially reasonable efforts to remove any detected viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs prior to release. Your exclusive remedy and our sole liability for any breach of the foregoing warranty will be (x) the correction of the Product errors that caused the breach of such warranty, (y) replacement of such Product with materially functionally equivalent software, or (z) if we cannot accomplish either (x) or (y) despite using our reasonable efforts after sixty (60) days, then either party may terminate the Order for the affected Product, and we will refund you any prepaid fees paid for the terminated Product for periods after the effective date of termination. NO OTHER WARRANTIES OR COMMITMENTS, EXPRESS OR IMPLIED, ARE MADE TO YOU WITH RESPECT TO ANY PRODUCT OR SERVICE INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEMS INTEGRATION, TITLE, SATISFACTORY QUALITY AND NON- INFRINGEMENT.
8. **Limitation of Liability.** THE CUMULATIVE AGGREGATE LIABILITY OF US AND ALL OF OUR AFFILIATES AND LICENSORS TO YOU AND ALL OF YOUR AFFILIATES RELATED TO THE ORDER WILL NOT EXCEED THE AMOUNT OF THE FEES PAID OR PAYABLE UNDER THE ORDER IN THE TWELVE (12) MONTHS PRIOR TO THE FIRST CLAIM MADE BY YOU. IN NO EVENT WILL WE OR ANY OF OUR AFFILIATES OR LICENSORS BE LIABLE TO YOU OR ANY OF YOUR AFFILIATES FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF WE OR ANY OF OUR AFFILIATES OR LICENSORS 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.
9. **Data Protection.** You will not transfer to us or provide us any access to any data or information that is considered “Personal Data,” “Protected Health Information,” “Personally Identifiable Information” or similar terms under applicable law (“Protected Data”) in connection with the Order, except for Protected Data related to your contact persons and/or basic contact data related to the Customer for which you have a basis to share such Protected Data with us. We have implemented appropriate technical, organizational, and security measures designed to safeguard and protect Protected Data provided by you to us and we may access, use and transfer such Protected Data to our affiliates and third parties (including those located outside of the European Economic Area) only for the purposes of fulfilling our obligations and exercising our rights, providing information to you and complying with our legal and auditing requirements.
10. **Confidentiality.** Each party will maintain in confidence all Confidential Information disclosed by the other party and will not use, disclose, or permit the use of any such Confidential Information except for the purpose of performing its obligations under the Agreement. “Confidential Information” means all information that is identified as confidential at the time of disclosure or reasonably should be known to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Confidential Information shall not, however, include information that the receiving party can demonstrate: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the receiving party; (iii) is rightfully obtained by the receiving party from a third party without breach of any confidentiality obligation; or (iv)

is independently developed by employees of the receiving party. This obligation of confidentiality shall survive the termination of these Marketplace Partner Terms & Conditions and continue for a period of five (5) years, after such termination (except that with respect to Confidential Information that qualifies as a trade secret under applicable law, the confidentiality obligations shall be perpetual). Any breach of this clause may result in immediate legal action for injunctive relief and damages. Upon written request of the disclosing party, except for electronic copies made in the course of normal network backups a party in possession of the other party's Confidential Information will promptly return to the disclosing party or destroy (and provide written certification of such destruction) all materials containing or reflecting any of the disclosing party's Confidential Information.

11. Force Majeure. Neither party will be liable to the other for any delay or failure to perform any obligation under the Order and these Marketplace Partner Terms & Conditions if the delay or failure results from any cause beyond such party's reasonable control, including acts of God, labor disputes or other industrial disturbances, actions of third-parties beyond either party's control, network intrusions or denial of service attacks, systemic electrical, telecommunications, or other computer, Internet, Internet service provider, hosting facility, hardware, software, power systems or utility failures beyond such party's control, earthquake, storms or other elements of nature, embargoes, riots, public health emergencies (including pandemics and epidemics), acts or orders of government, acts of terrorism, or war.

12. Notices. All notices will be in writing and will be deemed to have been given when (a) personally delivered; or (b) sent by electronic mail; or (c) sent by a commercial overnight courier. You will provide notices to: MicroStrategy Incorporated, Attention: General Counsel, 1850 Towers Crescent Plaza, Tysons Corner, Virginia, 22182, United States; email: cwrequests@microstrategy.com.

13. Assignment. The Partner Agreement may not be assigned or otherwise transferred in whole or in part by you, including by operation of law, without our prior written approval.

14. FCPA and Related Matters. You and your subcontractors will comply with all applicable anti-mafia, anti-bribery and anti-corruption statutes, rules or regulations of any national, federal, state or local jurisdiction, including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the U.K. Bribery Act of 2010 (in force on July 1, 2011) ("Anti-Bribery Laws"). You warrant and represent that you are not a government owned or controlled entity and that none of your directors or officers (or any individuals holding functionally equivalent positions) are a Government Official (as defined in applicable Anti-Bribery Laws). Upon sixty (60) days prior written notice, we will have the right to require that your employees participate in complimentary training provided by us (including periodic refresher training) regarding compliance with all Anti-Bribery Laws. You will, at your own expense, cooperate with any investigation conducted by us in connection with your compliance with this paragraph; such cooperation will include participating in interviews conducted by us and/or our designees and providing any information requested by us and/or our designees. You will ensure the compliance of your employees, directors, officers, subcontractors and business associates with the terms and conditions of this paragraph, and will promptly notify us, in writing, of any known or suspected breach of any provisions of this paragraph by you, your employees, directors, officers, subcontractors or business associates. We may, on reasonable advance written notice, examine your corporate books and records that relate to your interactions with Government Officials (as defined in applicable Anti-Bribery Laws) in connection with transactions and other activities relating to the sale, distribution or provision of Products or Services. Notwithstanding anything to the contrary in the Partner Agreement, we will have the right, in our reasonable judgment, to determine whether you have breached the terms and conditions of this paragraph and may immediately terminate the Partner Agreement by providing you written notice of any such breach.

15. Governing Law and Venue. The Partner Agreement and the parties' relationship under it will be interpreted under and governed by the laws of the Commonwealth of Virginia and controlling United States federal law, without regard to conflicts of law provisions and the United Nations Convention on Contracts for the International Sale of Goods. Any disputes, actions, claims, or causes of action arising out of or in connection with the Partner Agreement, the parties' relationship under it or the Products or Services will be subject to the exclusive jurisdiction of the state and federal courts with jurisdiction over Fairfax County, Virginia. Both parties hereby irrevocably consent to the exclusive jurisdiction of and venue in such courts and waive any right to a jury trial in any such proceeding. In any dispute arising under the Partner Agreement, the prevailing party will be entitled to recover its cost of enforcing its claim, including reasonable attorney fees.

16. Entire Agreement & Order of Precedence. Notwithstanding anything to the contrary, the Order, together with these Marketplace Partner Terms & Conditions constitutes the entire agreement between the parties with respect to

the Marketplace Transaction that is the subject matter hereof. In the event of a conflict, the provisions of the Order (excluding conflicting or additional provisions of a Customer proposal, partner proposal, purchase order or other documents, which shall be null and void) will take precedence over provisions of these Marketplace Partner Terms & Conditions and over any other addenda or attachment. The Order, together with these Marketplace Partner Terms & Conditions supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter and is entered into without reliance on any promise or representation other than those contained in the Partner Agreement.

17. Cumulative Remedies. Except as otherwise provided in these Marketplace Partner Terms & Conditions, none of the rights, powers or remedies conferred upon any party under these Marketplace Partner Terms & Conditions will be mutually exclusive. Each such right, power or remedy will be cumulative and in addition to every other right, power or remedy available to such party, whether available at law, in equity or otherwise.

18. Relationship of the Parties. The parties are independent contractors. The Marketplace Transaction does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Unless stated in these Marketplace Partner Terms & Conditions, nothing in these Marketplace Partner Terms & Conditions confers or is intended to confer any rights to any person not a party to the Order. There are no intended third-party beneficiaries of these Marketplace Partner Terms & Conditions.

19. Miscellaneous. 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. These Marketplace Partner Terms & Conditions are entered into without reliance on any promise or representation other than those contained herein. Section headings are inserted for convenience only and shall not affect interpretation of these Marketplace Partner Terms & Conditions. If any provision of these Marketplace Partner Terms & Conditions is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of these Marketplace Partner Terms & Conditions will remain in effect. A waiver of any right under these Marketplace Partner Terms & Conditions is only effective if it is in writing and only against the party who signed such writing. Any amendment, variation or modification of these Marketplace Partner Terms & Conditions must be in writing and signed by both parties. Any provision of these Marketplace Partner Terms & Conditions that would reasonably be expected to survive will survive the termination of the Marketplace Partner Terms & Conditions.