

## **CLOUD UPDATE SOFTWARE SUBSCRIPTION TERMS**

These Cloud Update Software Subscription Terms (these “CUS Terms”) form a part of the Order Form, or any other agreement or document, which incorporates these CUS Terms by reference (the “Incorporating Document”) entered into between Hyland and Customer, and amend that certain separate contract that governs the licenses or support to the Software previously procured by Customer (such as an End User License Agreement (click through or written), Maintenance Agreement, Master Agreement, and Master Software License, Services and Support Agreement, Software License and Services Agreement, or other similar agreement addressing Software license terms) (the “Underlying License Agreement”). In the event of any conflict between these CUS Terms and the Underlying License Agreement, these CUS Terms shall control.

If these CUS Terms are incorporated into an Incorporating Document entered into between Hyland and a Hyland authorized channel partner as it relates to a particular Customer, such Hyland authorized channel partner is required to ensure that such Customer has agreed to these CUS Terms as an amendment to the Underlying License Agreement, whether that Underlying License Agreement is between Hyland and such Customer or the Hyland authorized channel partner and such Customer.

### **1. DEFINED TERMS.**

(a) Capitalized terms used in these CUS Terms and not defined herein are used herein with the same meanings given such terms under the Underlying License Agreement. The term “Agreement” as used in the Underlying License Agreement and in these CUS Terms hereafter shall mean the Underlying License Agreement as amended by these CUS Terms.

(b) The following defined terms are added to the Underlying License Agreement:

“CUS Tools” means the CUS broker and worker nodes installed in the Customer’s environment to facilitate the provision of Upgrades and Enhancements.

“Cloud Update Software Subscription” means a subscription to Software and Support as described in Section 2 of these CUS Terms.

“CUS Data” means: (a) metadata describing Software build versions and configurations used by Customer; (b) metadata and binary artifacts associated with Software updates or releases available; (c) information about the network environment on which the Software is installed; (d) system or user requests and responses, and logs related to the same; (e) logged errors; and (f) other data that may be enabled for exchange by Customer’s system administrator to support certain system functionality.

“Effective Date” means the date on which the Incorporating Document is fully executed by Customer and Hyland.

“Software” as used herein, means the Software as defined and licensed to Customer under the Underlying License Agreement.

“Subscription Fees” means, notwithstanding anything to the contrary in the Underlying License Agreement, periodic fees for the Cloud Update Software Subscription, and payable by Customer to Hyland or to Hyland’s authorized channel partner, if applicable.

“Support” means: (A) if Customer receives support directly from Hyland, (i) “Support” or “Maintenance and Support” or “Success Path Services” or similar services if those services are provided under an existing agreement between Hyland and Customer; or (ii) if there is no such existing agreement between Hyland and Customer, the services provided by Hyland in accordance with the terms set forth at <https://legal.hyland.com/Customer-Legal-Center#software-maintenance-and-support-terms>; or (B) if Customer receives support from a Hyland authorized channel partner, “Support” or “Maintenance and Support”, as described and provided by Hyland’s authorized channel partner pursuant to the terms of an existing agreement between Customer and Hyland’s authorized channel partner.

“Upgrades and Enhancements” means, unless otherwise defined in an agreement between Hyland and Customer, or between a Hyland authorized channel partner and Customer, any and all new versions, improvements, modifications, upgrades, updates, fixes and additions to the Software that Hyland makes available to its end users generally during the term of the Agreement, together with updates of the Documentation to reflect such new versions, improvements, modifications, upgrades, fixes or additions; provided, however, that the foregoing shall not include new, separate product offerings, new modules or re-platformed Software.

## **2. CLOUD UPDATE SOFTWARE SUBSCRIPTION.**

During the term of the Cloud Update Software Subscription as described in Section 3 of these CUS Terms, the Cloud Update Software Subscription includes: (i) Customer’s right to use the Software, subject to the same rights and restrictions set forth in the Underlying License Agreement, except as otherwise stated herein; and (ii) Support for such Software. For Software that includes functionality that enables it to operate with the CUS Tools, Support includes the delivery of Upgrades and Enhancements via the CUS Tools, which must be connected to the internet to function. For clarity, to the extent Customer licensed the Software on a perpetual basis prior to the Effective Date, such perpetual license to the Software under the Underlying License Agreement shall terminate on the Effective Date, and is replaced with a subscription license as stated in these CUS Terms.

Customer acknowledges and agrees that the CUS Tools enable the transfer of CUS Data between Customer’s environment and Hyland’s cloud solely to enable Customer’s Cloud Update Software Subscription. Aggregated and anonymized CUS Data may be used by Hyland to improve its services and products.

## **3. TERM OF THE CLOUD UPDATE SOFTWARE SUBSCRIPTION.**

Unless terminated earlier for breach in accordance with the terms of the Agreement, the term of the Cloud Update Software Subscription shall begin on the Effective Date and run through the Term Length identified in the Incorporating Document ("Initial Term"), and such term will automatically renew thereafter for successive terms of the same length as the Initial Term, unless and until either party provides at least thirty (30) days advance written notice of non-renewal, in which case the Cloud Update Software Subscription shall terminate at the end of the then current term. Customer's right to terminate the Underlying License Agreement for convenience shall not apply to the Cloud Update Software Subscription; Customer may elect not to renew its Cloud Update Software Subscription after the Initial Term as described in this provision.

#### **4. SUBSCRIPTION FEES.**

(a) *Subscription Fees Payable to Hyland.* In lieu of Customer's obligation to pay Software license fees and Support fees under the Underlying License Agreement, Customer shall pay Subscription Fees to Hyland during the term of the Cloud Update Software Subscription in such amounts as are invoiced by Hyland. Subscription Fees for the Initial Term are set forth in the Incorporating Document. Customer will be invoiced upon the Effective Date for the first year of the Initial Term. Such invoice shall be due and payable in accordance with the Underlying License Agreement, and if no payment terms are set forth in the Underlying License Agreement, such invoice shall be due and payable by Customer net thirty (30) days from the date of the applicable invoice. For any subsequent years, Customer will be invoiced for Subscription Fees prior to the beginning of such year, and such invoices shall be due and payable by Customer on or before the beginning of such year. In the event Customer adds additional Software licenses to the Cloud Update Software Subscription, Customer will be invoiced for Subscription Fees for such additional Software licenses on a pro rata basis upon acceptance of the purchase order for such additional Software licenses. Such invoice shall be due and payable by Customer in accordance with the Underlying License Agreement, and if no payment terms are set forth in the Underlying License Agreement, such invoice shall be due and payable by Customer net thirty (30) days from the date of the applicable invoice. Thereafter, Subscription Fees relating to such additional Software shall be included in the subsequent invoices issued with respect to the Cloud Update Software Subscription.

(b) *Failure to Pay.* Hyland may, without limiting its other rights and remedies, suspend or cease the provision of the Cloud-Update Software Subscription in the case of Customer's failure to make any payment when due (other than with respect to Disputed Amounts). Hyland will use reasonable efforts to (i) notify Customer prior to any suspension, unless prohibited by applicable law or court order, and (ii) reestablish access to the Cloud Update Software Subscription after payment has been received. Customer will remain responsible for all fees incurred before and during any suspension. As used herein, "Disputed Amounts" means those amounts on any invoice which the invoiced party is disputing reasonably and in good faith and is cooperating diligently to resolve the dispute.

(c) *Subscription Fees Payable to a Hyland Authorized Channel Partner.* If Customer is receiving Support from a Hyland authorized channel partner, and paying Subscription Fees to such Hyland authorized channel partner, Subscription Fees will be invoiced and due and payable in accordance with Customer's agreement with such Hyland authorized channel partner.

#### **5. IP INFRINGEMENT INDEMNIFICATION.**

In the event Customer is entitled to a refund of fees paid under an IP infringement indemnification provision of the Underling License Agreement, notwithstanding anything to the contrary in the Underlying License

Agreement, the amount of such refund shall be the pre-paid, unused fees for the terminated portion of the Cloud Update Software Subscription.

## **6. CONTROLLING LANGUAGE.**

Hyland may make other versions of these CUS Terms available in other languages at this online location. This English language version of these CUS Terms controls over any version of the CUS Terms made available at this online location in another language if the Incorporating Document is in English. If the Incorporating Document is in a language other than English (such language, the "Other Language"), but these Subscription Terms are not made available at this online location in the Other Language, this English language version controls over any other version of CUS Terms that may be made available at this online location in another language.

The most current version of this document shall be such in effect as of 12:00am EST (Eastern Standard Time) of the date stamped on such online version.