

Order # PSSB-31607**Date:** September 18, 2019

This VMware Professional Services Statement of Work (“SOW”) is made between VMware, Inc. (“VMware”) and Lake County IL (“Customer”). This SOW authorizes VMware to provide Customer with consulting services according to the attached Exhibit A: General Terms and Conditions.

Overview

VMware Solution Strategy services provide Customers a strategic consulting experience to enhance the planning, adoption, and implementation of VMware products and solutions. Leveraging the expertise and knowledge of VMware, the Enterprise Architect streamlines Customer's enterprise objectives across applicable technology areas such as: private/public/multi cloud, end user computing, mobility and software-defined data center (SDDC). This project requires the following modules:

- **VMware Solution Strategy:** This is an assessment-based consulting engagement that translates an organization's technology vision into an illustration deliverable. The vision is derived through a combination of assessment-based feedback from key technology and business stakeholders, Customer sponsors, or key stakeholder vision, in addition to the Enterprise Architect's thought leadership, creativity, and expertise. Accompanying the illustration's vision, are graphical and text modules that address strategies to achieve the organization's vision and reduce the risk related to technological capabilities. Along with the illustration is a Customer sponsor assessment briefing, and executive briefing of the Vision & Strategy Illustration deliverable.

The following are the high-level activities included in this project:

- Assess. Gap identification between current and preferred end state.
- Design. Solution design through a series of workshops and consultation.

Current Business Situation

Lake County is going through a Data Center Consolidation and migration of applications to new Multi-Cloud platforms. Lake County has already performed a detailed discovery of their applications and dependencies and require assistance in formalizing this and other related assessment data into a new Multi-Cloud Operating model with a detailed migration strategy.

Proposed Approach

Provide a Solutions Strategy engagement to Lake County to assess their readiness, identify gaps and provide recommendations with a Strategic Multi-Cloud Illustration and an associated Transformation Roadmap.

VMware will assist with the development of the Customer's capability to do the following:

- Define a Multi-Cloud Transformation Strategy and associated Illustration and Roadmap to communicate the strategy, measure results and track progress.

VMware will provide the following services:

- Define an IT transformation strategy for cloud computing

The following are the high-level activities included in this project:

Knowledge Transfer – Knowledge transfer of the design, deployment, and operations procedures.

Project Scope

The scope of the service requires the following.

Define an IT transformation strategy for cloud computing

The Solution Strategy service for Cloud Computing assesses an organization's overall business and technical objectives, translating the Customer's current infrastructure and operational state & goals, injecting thought leadership, and creativity to deliver a cohesive strategy to transform IT's service provider capabilities and optimize the use of Customers technology investment.

Specification	Parameters	Description
Planning, Kickoff, Workshops and Interviews	Up to 2 weeks	Determines mission and business objectives, identifies project results criteria, and defines the user experience. Hold a series of workshops and interviews designed to gather input for strategy and roadmap planning incorporating Customers pre-existing application assessment data.
Develop Strategic Illustration and Roadmap Content	Up to 4 weeks	Design and Development of the Strategic Illustration & Roadmap. Evaluate existing processes, organizational structure and cloud management methods as input to the recommended Multi-Cloud Operating Model.
Review, Adjustment and Presentation	Up to 1 week	Discuss recommendations for current and future solutions adoption, integration, and usage. Ongoing playbacks and stakeholder feedback loop.
Deliverables - Illustration & Roadmap	Up to 1 week	Presentation of the validated Strategic Illustration & Roadmap

Out of Scope

The following are the out of scope items for this project.

General

- Installation and configuration of custom or third-party applications and operating systems on deployed virtual machines.
- Operating system administration including the operating system itself or any operating system features or components.
- Management of change to virtual machines, operating systems, custom or third-party applications, databases, and administration of general network changes within Customer control.
- Remediation work associated with any problems resulting from the content, completeness, accuracy, and consistency of any data, materials, or information supplied by Customer.
- Installation or configuration of VMware products not included in the scope of this document.
- Installation and configuration of third-party software or other technical services that are not applicable to VMware components.
- Installation and configuration of Customer-signed certificates.
- Configuration of VMware products used for the service other than those implemented for the mutually agreed to use cases.

- Customer solution training other than the defined knowledge transfer session.

Project Activities

Phase 1: Initiate

The VMware Project Manager hosts one (1) project initiation call with key Customer and VMware stakeholders. Topics to be discussed include the following:

- Project business drivers, scope, and objectives.
- Project deadlines, estimated timelines, scheduling, and logistics.
- Identification of key Customer team members with whom VMware will work with to assist with accomplishing the tasks defined in this SOW.
- Participating team members are confirmed, and contact details are exchanged to schedule the project kickoff meeting.

Deliverables

- One (1) project initiation call

Phase 2: Plan

VMware leads one (1) project kickoff meeting with Customer project sponsors and stakeholders to review expectations about the purpose of the engagement, the delivery approach, and estimated timelines. The following are the objectives of the meeting:

- Introducing the VMware team, roles, and responsibilities.
- Describing the project goals, phases, and key dates.
- Agreeing on communication and reporting process and creating a communications plan.
- Validating the project expectations and clarifying roles and responsibilities
- Confirming prerequisites are met as detailed in the solution checklist for specified solutions.
- Presenting the solution overview for specified solutions including estimated project results and deliverables.

The VMware Project Manager and the Customer Project Manager collaborate to develop the project plan.

Deliverables

- Communications plan
- One (1) Project Kickoff Meeting

Phase 3: Execute

The key activities for this phase are organized in the following sub-phases:

- Assess, Design and Develop Multi-Cloud Strategy and Roadmap
- Knowledge Transfer

VMware conducts the following activities covering the design, implementation and operational considerations relating to the scope of this project. VMware does the following:

- Assesses current environment and Customers existing application data as input to the overall roadmap development and migration planning
- Identifies findings related to the current environment and develops recommendations to assist the future state multi-cloud operating model
- Designs strategic illustration and associated roadmap

- Conducts executive briefing to review and validate proposed approach
- Finalizes strategic illustration, transformational roadmap
- Conducts knowledge transfer sessions with appropriate Customer representatives.

Note: For the avoidance of doubt, the Knowledge transfers herein do not comprise VMware product training or certification courses as offered by the VMware Education unit - (<http://mylearn.vmware.com/mgrreg/index.cfm>).

Deliverables

- Executive Briefing including Assessment Findings, Gaps & Recommendations
- Strategic Multi-Cloud Illustration
- Solution Strategy Illustration Wireframe (PDF)
- Solution Strategy Illustration document (PDF)
- Detailed Transformational Roadmap

Phase 4: Close

The VMware Project Manager conducts one (1) closure meeting with Customer covering project status, next steps, and how to engage further with VMware.

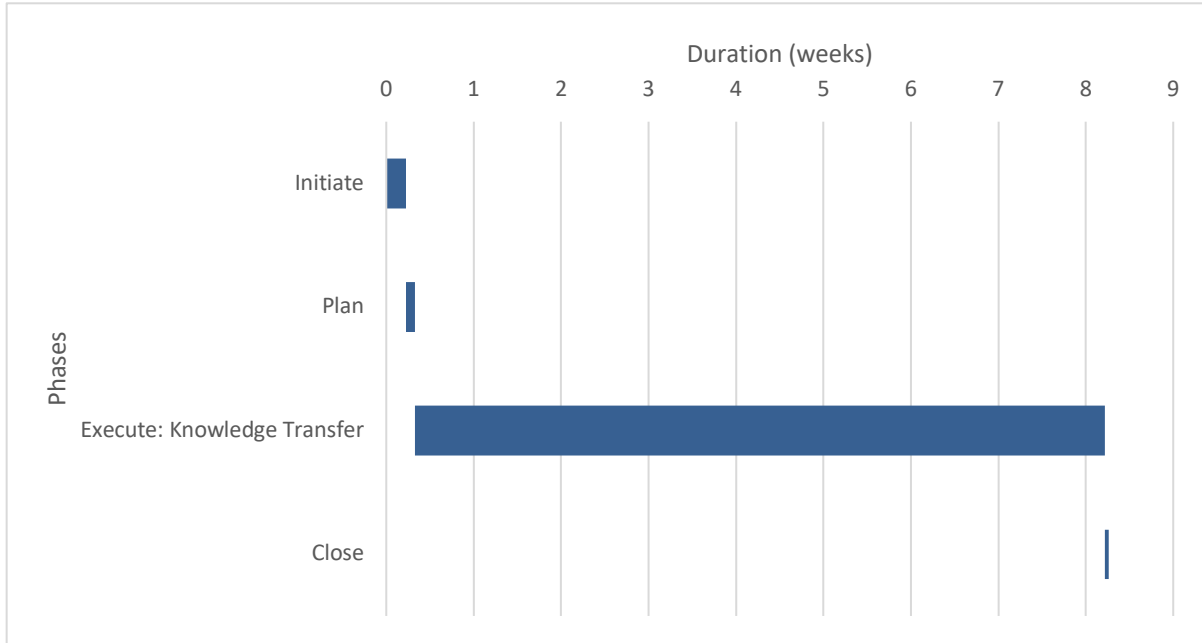
Deliverables

- One (1) Solution Strategy Executive Briefing
- Engagement summary presentation
- One (1) closure meeting

Schedule

The project defined in this SOW is estimated to be for a duration of up to nine (9) weeks. VMware consulting services will operate according to a schedule agreed to by both parties. The consulting services are performed during normal business hours and workdays (weekdays and non-holidays).

The following is an estimated outline of the duration of each phase in the project. Customer acknowledges that the estimated duration is indicative only and that VMware will not incur any penalty or forfeit any entitlement to payment, fees, or related expenses if the consulting services are not provided in accordance with the estimated duration.



Prerequisites

Hardware Requirements

Hardware requirements will be provided to Customer and are outlined in the Solution Checklist document.

Software Requirements

Software requirements will be provided to Customer and are outlined in the Solution Checklist document.

Customer will be solely responsible for procuring products and product support for all software to be used in connection with this SOW.

The participation of the following Customer stakeholders is required for the Service to be performed:

- Executive Sponsor
- Service Owner
- Business Architect
- Business Relationship Manager
- Chief Information Officer
- Chief Technology Officer
- Cloud Architect
- Director IT Operations
- Cloud Service Architect
- DevOps Manager
- IT Service Director
- Director IT
- IT Security Manager

Roles and Responsibilities

VMware Roles and Responsibilities

VMware provides and coordinates the activities of all VMware resources. The VMware technical resources are all VMware certified professionals and have significant technical expertise with the VMware products required for this service.

VMware Project Team

The VMware team will be comprised of multiple roles and might vary in the level of effort.

VMware Technical Resources

The VMware Technical Resource(s) have primary responsibility for drafting the design documentation as well as implementing and testing the systems as defined by the design and test plans.

VMware Technical Resources do the following:

- Lead requirements gathering and design workshops
- Perform process, technical and architectural duties outlined in this SOW
- Produce the document work products

Senior Project Manager

- Provides overall Customer relationship and project management
- Provides escalation troubleshooting and maintains risk register
- Provides final versions of all project documents
- Identifies the project team, roles and responsibilities and assignment dates
- Identifies final work products
- Establishes the communication plan and directs formal communication and coordination with Customer Project Manager
- Reports project status and holds weekly update meetings
- Schedules resources
- Maintains the project timeline, including activities, duration, and task owners
- Handles planning and pre-engagement preparation
- Oversees logistics, including security, remote access, and facility access

Customer Roles & Responsibilities

- Customer will provide a Project Manager knowledgeable in pertinent internal Customer processes and able to collaborate with the VMware Project Manager as specified in this SOW. VMware consulting services will not commence until the Customer project manager is assigned.
- Customer will support and provide representation at project review meetings at a mutually agreed to time and location to discuss the project status, issues, new requirements and overall project satisfaction. These meetings might also cover performance status updates, schedule updates, pending changes, open issues, and action items.
- Customer's Project Manager must have the authority to make project decisions and represent Customer in all matters related to this SOW. Customer's Project Manager will provide a single consolidated response to any review, approval, change, or decision request and will coordinate internal Customer technical resources in a manner consistent with the overall project schedule.
- Customer Project Manager will arrange for and coordinate internal Customer technical resources that will be required to interface with VMware consultants for the execution of the project. Customer staff will actively participate in this engagement, and individuals with relevant domain, business,

and/or technical expertise will be available as required. These participants are the acknowledged spokespersons for the areas they represent, and the VMware project team requires regular and timely access to them. If participants are unable to attend a scheduled meeting, then the Customer Project Manager becomes the final authority on all items of discussion.

- Customer will provide access to facilities and computer systems as required for VMware project team to perform tasks as outlined in this SOW.
- For engagement activities that need to occur at Customer work locations, VMware expects Customer to make reasonable facilities accommodations for the VMware project team at these locations. These accommodations will include a desk/cubicle, voice telephone, permission to operate mobile telephone within Customer work locations, internet access, and shared access to laser printer, copier, and conference room facilities.
- Customer will provide a suitable environment for knowledge transfer (overhead projector and conference facilities). Computer hardware and systems support is required for the knowledge transfer workshops, including: working hardware, network, and storage that is compatible with VMware ESXi™.
- Customer is responsible for, and assumes any risk associated with, any problems resulting from the content, completeness, accuracy and consistency of any data, materials, and information supplied by Customer.
- Any change to the scope of work explicitly described in this SOW, and any associated additional fees, must be mutually agreed to in writing.

Please refer [Appendix A](#)

Payment Terms and Schedule

VMware will provide the services as outlined in this SOW, inclusive of travel expenses but exclusive of applicable taxes, on a time and materials basis, through the redemption of VMware Consulting and Training Credits purchased by Customer.

Daily credit redemption rates for each VMware resource, and an estimate of the number of days likely to be required from that resource to complete the services, are set forth in the table below. VMware shall deduct the VMware Consulting and Training Credits from the Customer balance based on Customer approval of timesheets.

For the avoidance of doubt, work products, deliverables and services results mentioned in this SOW are included from a project management perspective only and are not conditional for the achievement of the objective of the SOW; their success is therefore not contractually owed and payment is not contingent upon any acceptance, outcomes, requirements, objectives or validation tests in which VMware may assist or be involved in or the outcome thereof, any specified work products or services results. The actual delivery of work products, deliverables and services will be limited by the time available under this SOW.

Consulting Resources	#	VMware Consulting and Training Credit Daily Rate	Days	Extended Quantity of VMware Consulting and Training Credits
Staff Consulting Architect	1	37.90	40	1,516



VMware Professional Services
Statement of Work

VMware Agreement #00407438

Senior Consultant	1	31.00	5	155
Sr. Project Manager	1	28.42	12	341
Totals (partial remote delivery)				2,012

For engagements requiring on-site consulting resources that are not local to the Customer's facility, travel for VMware consultants will occur on Mondays and Thursdays. It is expected that consultants will travel to the Customer's facility on Monday morning, arriving on site as early on Monday as possible, as dictated by flight options and travel time. The consultants will work on-site through Thursday and will schedule return travel on Thursday evenings, as available. It is expected that the consultants will provide forty (40) hours of work during a typical week and will accrue that time in a combination of on-site work on Monday through Thursday and off-site work on Friday.

Engagements that require consultants to work in excess of 40 hours per week, to work on weekends or major national holidays and/or to travel outside of this schedule will be considered exceptions to this policy and will be reviewed and approved by VMware and Customer as required.

The parties indicate their acceptance of the terms outlined herein by execution of this Statement of Work by their duly authorized representatives. These terms expire 30 days after the date on this SOW unless executed by both parties.

Agreed to:	Agreed to:
VMware, Inc.	Customer Name: Lake County IL
By Authorized Signature	By Authorized Signature
Date:	Date:
Name: Title:	Signatory Name (print): Address: City: State: ZIP: Country: Phone: Email:
Order Contact (Name, Title):	Signatory Title:

After this SOW is signed by Customer, it must be emailed to the VMware PSO order contact along with the purchase order, if required. The purchase order must be addressed to VMware, Inc. Dept. CH10806, Palatine, IL 60055-0806, and shall include the end user's email address and phone number, billing email address, and billing and shipping addresses.

Appendix A: Project Management Responsibilities

PROJECT MANAGEMENT SERVICES			
<p>VMware will designate a project manager as the principal point-of-contact for the Project to provide the project management services below. Customer agrees to designate a Customer project manager to assist the VMware project manager to fulfil the responsibilities as set out below.</p>			
Project Management Scope			
		VMware Responsibility	Customer Responsibility
Project Setup and Initiation			
	Conduct kick-off conference call with key stakeholders	✓	
	Develop high-level project schedule	✓	
	Develop Project Management Plan	✓	
	Conduct kick-off meeting with select members of project team	✓	✓
	Validate project setup is consistent between multiple VMware projects		✓
Scope Management			
	Validate that all work is within scope of contract	✓	
	Document changes to scope and execute change control process	✓	✓
	Maintain list and status of project deliverables	✓	
	Maintain Work Breakdown Structure (WBS)	✓	✓
Schedule Management			
	Create and maintain schedule and status of deliverables	✓	
	Maintain schedule as need arises	✓	
	Assign resources to project schedule	✓	
	Manage Customer resources in schedule		✓
	Communicate impact of scheduling conflict between multiple VMware projects		✓
Financial Management			
	Track actual hours and expenses	✓	
	Report project expenditures vs. budget (hours for T&M projects only)	✓	
	Review invoices for accuracy	✓	
	Multi-project consolidated reporting		✓
Quality Management			
	Define and execute formal review process	✓	
	Establish Customer's project readiness	✓	✓

	Document requirements for operational readiness and incorporate into schedule		✓
	Facilitate review meetings		✓
Risk and Issue Management			
	Track and manage product risks and issues	✓	
	Track and manage technical project risks and issues		✓
	Track and manage project risks and issues		✓
Resource Management			
	Identify and assign properly qualified VMware resources	✓	
	Determine and document Customer resources required for project		✓
	Integrate Customer resources into the project schedule		✓
Communications Management			
	Weekly status report	✓	
	Weekly status meeting	✓	
	Facilitate requirements gathering meetings	✓	
	Facilitate design meetings		✓
	Facilitate meetings for major project decisions		✓
	Periodic stakeholder meeting		✓
	Executive briefing		✓
	Multi-project consolidated reporting		✓
Project Closure			
	Obtain Customer signoff on Time sheets for T&M engagements	✓	
	Project closure conference call	✓	
	Formal project closure meeting	✓	
	Facilitate "Lessons Learned" session	✓	

VMware Professional Services Exhibit A - General Terms & Conditions

VMware Agreement #00407438

1. Definitions.

- a) **"Acceptance Period"** means a period of ten (10) business days following, (i) with respect to a fixed fee engagement, delivery of the Project Milestone Completion Form, or (ii) with respect to time and materials engagements, the submission of timesheets to Customer.
- b) **"Affiliate"** means, with respect to a party, an entity that is directly or indirectly controlled by or is under common control with that party, where "control" means an ownership, voting or similar interest representing fifty percent (50%) or more of the total interests of the entity (but only as long as that person or entity meets these requirements).
- c) **"Consulting Services"** means the services provided by VMware to Customer as described in the Statement of Work to which these General Terms & Conditions are attached ("**SOW**"). Alternatively, if Customer ordered the services via a VMware online datasheet, all references to the SOW will be deemed to refer to that online datasheet.
- d) **"Customer Materials"** means any materials or Technology provided to VMware by Customer in connection with the Consulting Services.
- e) **"Deliverables"** means any reports, analyses, scripts, templates, code or other work products, tangible or intangible, to be delivered by VMware to Customer as set forth in the SOW.
- f) **"Derivative Work"** means a derivative work as defined under applicable intellectual property laws. [For the US only, we will replace "applicable" with "U.S."]
- g) **"Intellectual Property Rights"** means all worldwide intellectual property rights including copyrights, trademarks, service marks, trade secrets, know-how, inventions, patents, patent applications, moral rights and all other proprietary rights, whether registered or unregistered.
- h) **"Parties"** means VMware and Customer collectively, and a **"Party"** means VMware or Customer individually.
- i) **"Taxes"** means any sales, use and other taxes (other than taxes on VMware's income), export and import fees, customs duties, and value added taxes, and similar charges applicable to the Consulting Services as described in the SOW that are imposed by any government or other authority.
- j) **"Technology"** means algorithms, approaches, source and object codes, concepts, data, designs, developments, documentation, discoveries, expressions, inventions, know-how, methodologies, multimedia files, processes, programs, skills, software, techniques, technology, templates, text, tools, and web pages.
- k) **"Territory"** means the country or countries in which Customer has been invoiced, unless otherwise specified in the SOW.
- l) **"Third Party Agent"** means a third party delivering information technology services to Customer pursuant to a written contract with Customer.
- m) **"VMware Retained Materials"** means (i) materials (other than products) developed or obtained by or for VMware independently of the Consulting Services, and (ii) subsets or modules of the Deliverables that by themselves provide generic technical information not unique to Customer's business.

2. Consulting Services.

- a) **Consulting Services.** VMware will provide the Consulting Services and the Deliverables as specified in the SOW. The SOW will (i) incorporate by reference this Professional Services General Terms and Condition; and (ii) specify and describe the relevant business parameters, including, but not limited to, the Consulting Services, the Deliverables, the Customer Materials, primary contact information for VMware and Customer, project description, delivery schedule, staff roles, pricing, and a payment schedule. In the event of a conflict between the terms of this General Terms and Conditions and the terms of an SOW, the General Terms and Conditions will govern unless otherwise explicitly superseded in the SOW. The General Terms and Conditions and the SOW are collectively referred as "SOW" hereinafter.
- b) **Acceptance.**
- i) For fixed fee engagements, upon completion of each milestone, VMware will deliver to Customer a Project Milestone Completion Form. For time and materials engagements, VMware will deliver timesheets to Customer. Customer will return the Project Milestone Completion Form or timesheets, as applicable, to VMware within the Acceptance Period, indicating Customer's acceptance of the SOW's Deliverables or Consulting Services.
- ii) If Customer reasonably believes that VMware did not perform the Consulting Services or the Deliverables in substantial conformance with the SOW, Customer will notify VMware, in writing, within the Acceptance Period. Customer's notice must specifically identify and explain each alleged non-conformance with the terms of the SOW. VMware will use reasonable efforts to correct Customer's issues and then again present the Project Milestone Completion Form or timesheets for Customer's acceptance as required by this Section 2.
- iii) If VMware does not receive Customer's acceptance or rejection within the Acceptance Period, the Consulting Services and the Deliverables will be deemed accepted by Customer, and Customer will have waived any right of rejection.
- c) **Project Change Request.**

- i) Either Party may request a modification to the Deliverables or to any material provision of the SOW by submitting a Project Change Request ("**PCR**"). Upon receipt of a PCR, VMware will estimate its financial and schedule impacts, if any. The Parties will review these estimates to determine whether the PCR would be mutually acceptable. VMware may not unreasonably refuse to accept a PCR initiated by Customer, if Customer agrees to bear the pricing and schedule impacts.
- ii) If the Parties agree on the PCR, the Parties will execute the PCR, and VMware will attach the final PCR to the SOW. If the Parties are unable to agree within five (5) business days after the PCR is submitted, then the submitting Party may either withdraw the PCR or terminate the SOW. If the SOW is terminated, the only payments due are for the Deliverables delivered, Consulting Services performed, and expenses incurred by VMware prior to the termination date.
- d) **Customer Materials Delays.** Customer acknowledges that VMware's performance of the Consulting Services and delivery of the Deliverables is contingent on Customer's timely delivery of the Customer Materials required to perform the Consulting Services. Customer agrees that any reasonable scheduling or financial impacts caused by Customer's failure to deliver Customer Materials within the specified time will be treated as a PCR.
- e) **Personnel.** VMware will determine the personnel assigned to perform the Consulting Services. Customer may request, in writing, with specific reasons stated, the replacement of VMware personnel or VMware contractors that Customer reasonably believes are not adequately performing the Consulting Services.

3. Intellectual Property.

- a) **Grant of Copyright in the Deliverables.** Subject to Customer's payment of the amounts due under the SOW and to Customer's compliance with the SOW, Customer will own all copyrights to the portion of the Deliverables consisting solely of written reports, analyses, and other working papers (other than VMware Retained Materials), prepared and delivered by VMware to Customer under the SOW, provided that Customer will exercise its rights for Customer's internal business operations only and will not resell or distribute the Deliverables to any third party.
- b) **Grant of License Rights in the Deliverables.** For VMware Retained Materials and the portion of the Deliverables that consists of scripts, code, templates, and all other materials developed or otherwise provided by VMware in connection with the Consulting Services, VMware grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of the SOW), perpetual license, without the right to sublicense, to use and copy (without the right to sublicense), for Customer's internal business operations only (the "Deliverables License"). The Deliverables License does not apply to (i) Customer Materials, and (ii) any other products or items licensed, or otherwise provided, under a separate agreement.
- c) **Customer Materials.** Any Customer Materials used by VMware in connection with the SOW remain Customer property. Pursuant to Customer's Intellectual Property Rights in Customer Materials, Customer grants VMware a non-exclusive and non-transferable right to use Customer Materials solely for the benefit of Customer in fulfillment of VMware's obligations under the SOW. Customer warrants that it has the necessary rights to provide Customer Materials to VMware, so that VMware can access, use, and modify Customer Materials as necessary for VMware's performance of the Consulting Services.
- d) **Reservation of other Intellectual Property Rights.** Each Party reserves for itself all other Intellectual Property Rights that it has not expressly granted to the other. All rights in VMware Retained Materials remain VMware's sole property. VMware will not be limited in developing, using or marketing services, materials or products that are similar to or related to the Deliverables (other than those portions of the Deliverables where ownership of the copyright has been granted to Customer) or the Consulting Services, or, subject to VMware's confidentiality obligations to Customer, in using the Deliverables in or performing similar Consulting Services for any other projects or parties.

4. Confidentiality.

- a) **Definition. "Confidential Information"** means information or materials provided by one Party ("Discloser") to the other Party ("Recipient") which are in tangible form and labelled "confidential" or the like, or information which a reasonable person knew or should have known to be confidential in the circumstances. The following information will be considered Confidential Information whether or not marked or identified as confidential: any personally identifiable information (such as the names of Discloser's customers), or the physical address of any equipment contained in any information collected about Discloser's computing environment, Discloser's business operations, pricing, discounts, source code, product roadmaps or strategic marketing plans.
- b) **Protection.** Recipient may use Confidential Information of Discloser; (i) to exercise its rights and perform its obligations under the SOW; or (ii) in connection with the Parties' on-going business relationship. Recipient will not use any Confidential Information of Discloser for any purpose not expressly permitted by the SOW, and will disclose the Confidential Information of Discloser only to Recipient's employees or contractors who have a need to know the Confidential Information for purposes of the SOW and who are under a duty of confidentiality no less restrictive than Recipient's duty under the SOW. Recipient will protect Discloser's Confidential Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature, but with no less than reasonable care.
- c) **Exceptions.** Recipient's obligation under this Section 4 with respect to any of Discloser's Confidential Information will terminate if Recipient can show by written records that this information: (i) was already rightfully known to the Recipient at the time of disclosure; (ii) was disclosed to Recipient by a third party who had the right to make the disclosure without any confidentiality restrictions; (iii) is, or through no fault of Recipient, has become, generally available to the public; or (iv) was independently developed by Recipient without access to, or use of, Discloser's Confidential Information. In addition, Recipient will be allowed to disclose Discloser's Confidential information to the extent that the disclosure is required by law or by order of a court or similar judicial or administrative body, provided that Recipient notifies (to the extent permitted by law) Discloser of that required disclosure promptly and in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of that required disclosure.

**VMware Professional Services
Exhibit A - General Terms & Conditions**

VMware Agreement #00407438

d) Permitted Disclosure. Notwithstanding anything to the contrary in these General Terms & Conditions, neither Party will disclose the SOW to any third party without prior written consent of the other Party. Notwithstanding the foregoing, each Party may disclose the terms and conditions of the SOW without the prior written consent of the other Party (i) as required by any court or other governmental body, (ii) as otherwise required by law, (iii) to legal counsel of the Parties, (iv) in confidence, to their respective accountants, banks, and financing sources and other professional advisors, (v) in connection with the enforcement of the SOW or the Party's rights under the SOW; (vi) in confidence, in connection with an actual or proposed merger, acquisition, or similar transaction; or (vii) if compelled by law, in which case the Party compelled to make the disclosure will use its best efforts to give the other Party advance notice of the requirement.

5. Intellectual Property Indemnification.

a) Defense and Indemnification. Subject to the remainder of this Section 5, VMware will defend Customer against any third party claim that the Deliverables, when used as contemplated by the SOW, infringe any patent, trademark or copyright of a third party, or misappropriate a trade secret (but only to the extent that the misappropriation is not a result of Customer's actions), under the laws of: (a) the United States; (b) Canada; (c) the European Economic Area; (d) Australia; (e) New Zealand; (f) Japan; or (g) the People's Republic of China, to the extent that those countries are part of the Territory for the use of the Deliverables ("Infringement Claim"), and indemnify Customer from the resulting costs and damages finally awarded against Customer to a third party by a court of competent jurisdiction or agreed to in settlement. The foregoing obligations are applicable only if Customer: (i) promptly notifies VMware in writing of the Infringement Claim; (ii) allows VMware sole control over the defense for the claim and any settlement negotiations; (iii) reasonably cooperates in response to VMware's requests for assistance; and (iv) is not in material breach of the SOW. Customer may not settle or compromise any Infringement Claim without the prior written consent of VMware.

b) Remedies. If the allegedly infringing Deliverables become, or in VMware's opinion be likely to become, the subject of an Infringement Claim, VMware will, at VMware's option and expense, do one of the following: (a) procure the rights necessary for Customer to make continued use of the affected Deliverables; (b) replace or modify the affected Deliverables to make them non-infringing; or (c) terminate the Deliverables License to the affected Deliverables, and, upon Customer's certified deletion or destruction of the affected Deliverables, refund that portion of the fees paid by Customer for the affected Deliverables. Nothing in this Section 5(b) will limit VMware's obligation under Section 5(a) to defend and indemnify Customer, provided that Customer replaces the allegedly infringing Deliverables upon VMware's making alternate Deliverables available to Customer or Customer discontinues using the allegedly infringing Deliverables upon receiving VMware's notice.

c) Exclusions. Notwithstanding the foregoing, VMware will have no obligation with respect to any claim based on: (a) a combination of the Deliverables with non-VMware products (other than non-VMware products that are listed on the relevant purchase order and used in an unmodified form); (b) use for a purpose or in a manner for which the Deliverables was not designed; (c) use of any older version of VMware software or the Deliverables when use of a newer VMware revision would have avoided the infringement; (d) any modification to the Deliverables made without VMware's express written approval; (e) any Deliverables provided by VMware in accordance with Customer's specifications or designs; (f) any claim that relates to open source software or freeware technology or any derivatives or other adaptations that is not embedded by VMware into VMware software listed on VMware's commercial price list or into Deliverables; or (g) Customer Materials or Technology that Customer instructs VMware to develop in a specific way or to achieve a specific end result. THIS SECTION 5 STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND VMWARE'S ENTIRE LIABILITY FOR ANY INFRINGEMENT CLAIMS OR ACTIONS ARISING UNDER OR IN CONNECTION WITH THE SOW.

6. Warranties and Limitation of Liability.

a) VMware Warranty. VMware warrants that the Consulting Services will be performed in a workmanlike manner in accordance with the standards of the industry. Customer must notify VMware of any alleged breach of this warranty before the end of the Acceptance Period. VMware's entire liability and Customer's sole remedy for VMware's breach of this warranty will be for VMware to, at its option, (i) use reasonable efforts to correct that breach, or (ii) terminate the SOW and refund that portion of any fees received that corresponds to that breach.

b) Disclaimer of Warranties. THE EXPRESS WARRANTY SET FORTH IN SECTION 6(a) ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VMWARE DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE REGARDING OR RELATING TO THE CONSULTING SERVICES OR DELIVERABLES, OR ANY OTHER MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THE SOW. VMWARE WILL NOT BE LIABLE FOR ANY THIRD-PARTY SERVICES OR PRODUCTS IDENTIFIED OR REFERRED TO CUSTOMER BY VMWARE. NO EMPLOYEE, AGENT, REPRESENTATIVE OR AFFILIATE OF VMWARE HAS THE AUTHORITY TO BIND VMWARE TO ANY REPRESENTATIONS OR WARRANTIES OUTSIDE OF THE SOW.

c) Limitation of Liability.

i) Limitation on Direct Damages. Except with respect to claims pursuant to Section 5 above, VMware's total liability and Customer's sole and exclusive remedy for a claim of any nature arising out of the SOW, regardless whether the claim is based on contract, tort, strict liability or otherwise, will be limited to proven direct damages caused by VMware's sole negligence in an amount not to exceed (i) US\$1,000,000 for damages to real or tangible personal property; and (ii) the fees paid to VMware for the Consulting Services from which the claim arises, for damages of any type not identified in (i) above or otherwise excluded under the SOW.

ii) Disclaimer of Liability. To the maximum extent permitted by applicable law, neither Party will be liable for any indirect, incidental, special, punitive or consequential damages, or for any loss of profits, business opportunity, revenue, goodwill or data, even if advised of the possibility of those damages.

iii) Limitation of Liability Exclusions. The limitations of liability in this Section 6(c) will not apply to (a) Customer's violation of VMware's or its licensors' Intellectual Property Rights or Customer's use of the Deliverables in a manner not expressly authorized by the SOW; (b) VMware's indemnification obligations under Section 5; (c) either Party's breach of confidentiality under the SOW; (d) Customer's payment obligations under the SOW; or (e) any liability which may not be excluded by applicable law.

iv) Further Limitations. VMware's licensors will have no liability of any kind under the SOW, and VMware's liability with respect to any third party software embedded in the Deliverables will be subject to Section 6 (a) and (b) above. Customers may not bring a claim under the SOW more than eighteen (18) months after the cause of action arises.

7. Fees and Payment.

a) Payment. VMware will provide the Consulting Services (i) for a fixed fee or (ii) on a time and materials basis, as described in the SOW, plus applicable taxes and travel expenses in accordance with VMware's travel and expense policy. Invoicing occurs upon Customer's acceptance of each milestone or timesheet, or approval of travel expenses, and must be paid by Customer within thirty (30) days of the date of invoice. If Customer uses pre-purchased VMware Consulting and Training Credits as the means of payment, then upon Customer's acceptance of Project Milestone Completion Form(s), timesheets, or travel expenses, the VMware Consulting & Training Credits will be deducted from Customer's balance. Customer is responsible for ensuring that its purchase order ("PO") issued to VMware for the Consulting Services reflects the pricing set forth in the SOW. If there is any difference in pricing listed in the SOW and the pricing listed in the PO, the pricing in the SOW will control. Customer agrees that POs do not have to be signed by Customer to be valid and enforceable. Subject to the SOW, all fees paid by Customer are non-refundable.

b) Taxes. Fees are exclusive of Taxes, and Customer will pay or reimburse VMware for all Taxes arising out of the SOW. If Customer is required under applicable law to pay its local taxing authority any withholding tax, charge or levy in respect of any payments due to VMware hereunder ("Withholding Tax"), Customer may deduct such Withholding Tax from applicable payments due to VMware provided that (a) Customer cooperates with VMware to minimize any such Withholding Tax, including obtaining treaty exemption certificates and filing for a tax ruling with the applicable taxing authority and (b) such withheld amounts shall be paid to the appropriate taxing authority by Customer, and Customer shall provide VMware with (i) copies of all official government issued receipts issued by the said taxing authority and all such other evidence as is reasonably necessary for VMware to establish that such taxes have been paid, and (ii) a schedule showing the invoice number and gross amounts to which such receipts relate (collectively, "Payment Documentation"). Such Payment Documentation must be provided to VMware by email to: ar@vmware.com within forty-five (45) days of the date Customer remits payment for each applicable VMware invoice. A failure to pay an invoice in full without submitting the Payment Documentation to VMware will cause interest to accrue on unpaid and undocumented amounts. Customer confirms that VMware can rely on the Customer address set forth in the SOW as being the place of supply for tax purposes.

c) Late Payments. All amounts not paid when due will incur a late charge equal to the lesser of one and one-half percent (1.5%) per month, or the maximum amount allowed by applicable law. VMware may suspend performance of the Consulting Services while any payment is delinquent.

d) Currency. All charges and fees provided for in the SOW will be in the currency specified in the SOW.

e) Canceling/Rescheduling SOW before Commencement. A minimum of fifteen (15) business days' written notice is required for rescheduling or canceling the SOW prior to the commencement of the Consulting Services. Customer will owe only incurred expenses (e.g., airfare), if any, if Customer gives that notice. Customer will owe the entire payment and any incurred expenses if the SOW is canceled with less than that notice.

8. Term and Termination.

a) Term. The term of the SOW begins on the date stated in the SOW and continues until (i) Customer's acceptance of the final Deliverables or final timesheet, (ii) terminated under Section 8(b), or (iii) the Parties mutually terminate the SOW in writing.

b) Termination. Either Party may terminate the SOW immediately upon written notice if: (i) the other Party breaches any provision of the SOW and does not cure the breach within thirty (30) days after receiving written notice from the other Party; or (ii) the other Party commits a material breach of the SOW that is not capable of being cured. VMware may terminate the SOW in its entirety effective immediately upon written notice to Customer if Customer: (i) terminates or suspends its business; (ii) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to control of a trustee, receiver or similar authority; or (iii) becomes subject to any bankruptcy or insolvency proceeding.

c) Survival. Any provision of the SOW will survive any termination or expiration of the SOW if by its nature and context it is intended to survive, including provisions relation to payment of outstanding fees, confidentiality, intellectual property, warranties and limitation of liability.

9. Miscellaneous.

a) Insurance. VMware will, for the term of the SOW, carry general and professional liability, automobile, and workers compensation insurance, for claims for bodily injury (including death) or damage to tangible or real property, which may arise or result from VMware's performance under the SOW. The Memorandum of Insurance may be viewed at <https://online.marsh.com/marshconnectpublic/marsh2/public/moi?client=362542334>.

b) Non-solicitation. During the period of the performance and one year from the completion of the Consulting Services under the SOW, neither Party will solicit directly or indirectly the employment or services of the employees or contractors of the other Party who were involved in the performance

**VMware Professional Services
Exhibit A - General Terms & Conditions**

VMware Agreement #00407438

under the SOW. Both Parties acknowledge that (i) any newspaper or other public solicitation not directed specifically to that person will not be deemed to be a solicitation for purpose of this provision, and (ii) this provision is not intended to limit the individual's right to change jobs.

c) Assignment. Customer will not assign this SOW or a PO or any right or obligation herein or delegate any performance without VMware's prior written consent, which consent will not be unreasonably withheld. Any other attempted assignment or transfer by Customer will be void. VMware may use its Affiliates or other sufficiently qualified subcontractors to provide the Consulting Services to Customer, provided that VMware remains responsible to Customer for the Consulting Services' performance.

d) Independent Parties. The Parties are independent contracting parties. Nothing in the SOW will be construed to create a partnership, joint venture or agency relationship between the Parties.

e) Governing Law. The SOW is governed by the laws of the State of California (excluding its conflict of law rules) and the federal laws of the United States. To the extent permitted by law, the state and federal courts located in Santa Clara County, California, will be the exclusive jurisdiction for disputes arising out of or in connection with the SOW. The UN Convention on Contracts for International Sale of Goods does not apply.

f) Force Majeure. Except for payment of fees, neither Party will be liable for failure to perform its obligations during any period if performance is delayed or rendered impracticable or impossible due to circumstances beyond that Party's reasonable control.

g) Compliance with Laws; Export Control; Government Regulations. Each Party will comply with all laws applicable to the actions contemplated by the SOW. All content, including the Consulting Services and the Technology included therein (collectively the "Materials") provided under the SOW are subject to governmental restrictions on (i) exports from the United States; (ii) exports from other countries in which the Materials may be produced or located; (iii) disclosure of Technology to non-U.S. persons; (iv) exports from abroad of products derivative of the Materials; (v) the importation and/or use of the Materials outside of the United States or other countries (collectively, "Export Laws"). Customer must comply with all Export Laws. Diversion contrary to United States law or other Exports Laws is expressly prohibited.

h) End User License Agreement. If the Consulting Services involve VMware software products licensed to Customer under a separate license agreement, unless otherwise provided in the SOW, the terms set out in the separate license agreement will apply with respect to each VMware software product.

i) Acknowledgement. Unless otherwise stated in the SOW, Customer acknowledges that the Consulting Services do not include significant production, modification or customization of VMware licensed software.

j) Waiver. Failure to enforce a provision of the SOW will not constitute a waiver.

k) Reference. VMware will not use Customer's name, logo, or project description in press releases or other marketing material without the prior written consent of Customer, and Customer agrees that consent will not be unreasonably withheld. Customer agrees to allow VMware to use its name and industry in alphabetical customer listings of VMware's customers generally, provided that no additional project information or other detail is used without Customer's written consent.

l) Counterparts. Facsimile, scanned or electronic signatures on the SOW will bind the Parties to the same extent as originals. The SOW may be executed in multiple counterparts all of which taken together shall constitute one single agreement between the Parties.

m) Severability. If any part of the SOW is held to be unenforceable, the validity of all remaining parts will not be affected.

n) Construction. The headings of sections of the SOW are for convenience and are not to be used in interpreting the SOW. As used herein, the word "including" means "including but not limited to."

o) Notices. Unless otherwise set forth in the SOW, any notice regarding the SOW or required by law must be in writing and delivered to the other Party's legal department at the address listed below via: (a) personal delivery confirmed in writing by the recipient; (b) certified mail, return receipt requested; or (c) recognized commercial courier offering confirmation of delivery. Notices will be deemed received upon the date of delivery shown by the corresponding confirmation. Either Party may change its address by notice to the other Party. All notices will be directed to Customer to the address set forth in the SOW, and to VMware as follows: VMware, Inc., 3401 Hillview Ave., Palo Alto CA 94304, Attention: Legal Department.

p) Entire Agreement. The SOW (including these General Terms & Conditions, and the Exhibits) contains the entire agreement between the Parties with respect to the subject matter of the SOW and supersedes all previous or contemporaneous communications, representations, proposals, commitments, understandings and agreements, whether oral or written, between the Parties regarding the subject matter of the SOW. The SOW may be amended only in writing and signed by authorized representatives of both Parties. VMware rejects any additional or conflicting terms and conditions on any PO, acknowledgement or other business form issued by Customer, unless expressly otherwise agreed to by the Parties in writing.