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Release Date: November 7, 2017

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Release date: November 9, 2016

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3. EXCLUSIONS. You shall not request, and NVIDIA shall not provide services under this Supplement related to:
(a) errors in your own or your licensors’ products that are not due to Errors in the Supported Software;
(b) service necessary due to operator error, improper use of the Supported Software or attempted support by unauthorized persons;
(c) your use of the Supported Software outside of the scope permitted under the AGREEMENT;
(d) modifications to the Supported Software made by you or on your behalf, or any modifications made by any third party without NVIDIA’s authorization;
(e) use of the Supported Software that deviates from the operating procedures, indicated supported operating systems and any other specifications indicated in the Documentation;
(f) to the extent the provision thereof would violate NVIDIA’s obligations to its third party licensors and suppliers with respect to such third parties’ intellectual property; or
(g) Supported Software or services provided free of charge.

Further, services under this Supplement do not include any enhancement(s) or addition(s) to the Supported Software beyond Maintenance, Updates and Upgrades.

4. YOUR SERVICE RESPONSIBILITIES. In order for NVIDIA to deliver services under this Supplement, you agree that:
(a) you are responsible for procuring, installing and maintaining all equipment and obtaining all consents for other software and other hardware necessary to operate the Supported Software;
(b) your failure to deploy a Maintenance, Update or Upgrade available to you as promptly as possible may render the applicable Supported Software non-operable or non-conforming to the later Documentation provided by NVIDIA and you assume all risks and liability arising therefrom;
(c) you shall further provide through Designated Users such information, and/or access to your resources as NVIDIA may reasonably require in order to provide services, including access to, and assistance of, your personnel who possess information required by NVIDIA for purposes of performing its obligations hereunder. As examples, as reasonably requested by NVIDIA you shall (i) identify the correct version(s) of Supported Software to which a potential Support Issue relates, (ii) provide the documentation and assistance necessary to demonstrate and diagnose each potential Support Issue, including providing necessary test cases that NVIDIA can reproduce on a Certified System, (iii) provide remote system access (upon mutual agreement) for NVIDIA to replicate potential Errors, and (iv) provide embedded diagnostic information associated with the Supported Software;
(d) When you use Maintenance, Update or Upgrade, access to a new product version does not change the number of authorized licenses you have for the Supported Software and you shall discontinue use of the prior version as necessary to maintain your authorized number of licenses;
(e) you will appoint as Designated Users only those of your employees who have reasonably appropriate technical backgrounds and skills. You may remove or replace any of the Designated Users at any time during a Service Term upon written notice to NVIDIA; and
(f) you will appoint, at NVIDIA’s request, designated service and engineering contacts for service issue escalations. NVIDIA shall be excused from performing any of its obligations hereunder to the extent any such non-performance is attributable to your failure to perform your obligations under this section.

5. SERVICE FEES; PAYMENT TERMS. When you purchase Service Subscriptions directly from NVIDIA the following applies: Service Fees for the Service Subscriptions are set forth in the associated Order and are payable pursuant to the terms of such Order. Unless otherwise expressly indicated in an Order, Service Fees will be invoiced upon your purchase, are payable net thirty (30) days of the
invoice date, and are expressed in U.S. Dollars. All Service Fees are non-refundable. The Service Fees do not include any taxes, duties or similar charges. If NVIDIA is required to pay sales, use, property, value-added or other taxes based on the payments provided in the AGREEMENT and if NVIDIA is required to collect and remit such taxes, then such taxes shall be billed to and paid by you or your reseller, unless NVIDIA receives a valid exemption or resale certificate. If you are not billed the applicable tax under the Order, then it is your responsibility to properly remit the tax directly to the applicable tax jurisdiction. Further, you acknowledge that the payments to NVIDIA under the AGREEMENT shall be made in full without reduction for withholding taxes, if applicable. This section shall not apply to taxes based on NVIDIA’s net income or payroll taxes. All amounts not paid when due will accrue interest (without the requirement of a notice) at the lower of 1.5% per month or the highest rate permissible by law until the unpaid amounts are paid in full. If payment of any Service Fee is overdue, NVIDIA reserves the right to suspend or terminate Service Subscriptions, in addition to any other remedies it may have, until the payment delinquency is corrected. Payment obligations survive any expiration or termination of the AGREEMENT and upon expiration or termination of the AGREEMENT any amounts owed to NVIDIA will be due and payable immediately on the effective date of expiration or termination, even if longer terms had been provided previously.

6. DEFINITIONS
6.1 “Certified Systems” means Supported OS platforms, corresponding hardware platforms, third party software and configuration details appearing on a list maintained by NVIDIA and made available to you, or as otherwise approved by NVIDIA.
6.2 “Day(s)” (only when capitalized) means 8:00 AM - 5:00 PM, Pacific Time, Monday through Friday, excluding U.S. public holidays. All other usage of “day” or “days” means calendar days.
6.3 “Designated User” means the individual(s) designated by you as the technical contact(s) who may file and engage with NVIDIA on Technical Support.
6.4 “Error(s)” means a reproducible defect, problem, logical error or bug in the Supported Software that constitutes a failure to comply substantially with the applicable Documentation and is reported using standard NVIDIA procedures.
6.5 “Error Correction(s)” means adapting, re-configuring, or reprogramming the Supported Software to correct the Error(s).
6.6 “Extended Support Period” means the period of time starting upon general availability of the next Upgrade version of a Supported Software product, and until the product reaches the product cycle milestone when Service Subscriptions are no longer made generally available for customers of the product (also referred to as the “end of life” milestone), which milestone is at NVIDIA’s sole discretion.
6.7 “General Support Period” means the period of time between general availability of one Upgrade version of a Supported Software product, and until the immediately following general availability of the next Upgrade version of the same product.
6.8 “Maintenance” means security patch(es), Error Correction(s) and Workaround(s) to the Supported Software made available by NVIDIA in its sole discretion and on a “when and if generally made available” basis to its other commercial customers of the Supported Software who have the same Supported Software version under a Service Subscription contract with NVIDIA that specifically includes “Maintenance”. Maintenance may include revisions to Documentation.
6.9 “Response” means NVIDIA’s initial acknowledgment of a Technical Support request filed by a Designated User.
6.10 “Service Fee(s)” means the fees for the purchased Service Subscriptions, as applicable for each Order.
6.11 “Service Subscription” means the particular services described in this Supplement that you purchased from NVIDIA or a NVIDIA authorized reseller, which will be some combination of the following: (i) Technical Support, (ii) Maintenance, (iii) Updates, and/or (iv) Upgrades.
6.12 “Support Issue(s)” means the Technical Support requests filed by Designated Users hereunder that relate to the Supported Software.
6.13 “Supported OS” means the supported operating system(s) listed in conjunction with a particular Certified System on the list maintained by NVIDIA and made available to you.
6.14 “Supported Software” means the Software installed on your premises that are under a current and valid license and for which you purchased Service Subscriptions, and does not include any modifications made by you or a third party on your behalf, any modifications to the Supported Software made by NVIDIA pursuant to a consulting services agreement or any portion of the Software not developed by NVIDIA.
6.15 “Service Term” means the duration of the Service Subscription, as set forth in an Order.
6.16 “Technical Support” means the provision of telephone or web-based technical assistance by qualified NVIDIA personnel to questions from Designated Users related to the installation, use and operation of the Supported Software, including basic instruction or assistance related to functional Errors in the Supported Software.
6.17 “Updates” means those modifications to the Supported Software other than Maintenance made available by NVIDIA in its sole discretion and on a “when and if generally made available” basis to its other commercial customers of the Supported Software who have the same Supported Software version under a Service Subscription contract with NVIDIA that specifically includes “Updates” and that is indicated by NVIDIA as an update by means of a change in the digit to right of first decimal point (e.g., version 5.0 to version 5.1). Updates may include revisions to Documentation.
6.18 “Upgrades” means those modifications to the Supported Software other than Maintenance made available by NVIDIA in its sole discretion and on a “when and if generally made available” basis to its other commercial customers of the Supported Software who have the same Supported Software version under a Service Subscription contract with NVIDIA that specifically includes “Upgrades” and that is indicated by NVIDIA as being an upgrade by means of a change in the digit to left of first decimal point (e.g., version 5.0 to version 6.0). Upgrades may include revisions to Documentation.

6.19 “Workarounds” means procedures and routines, for use by you, which, when employed in the regular operation of, or access to, the Supported Software, will avoid or substantially diminish the practical adverse effects of the relevant Error.

7. EXPIRATION OF TERMINATION OF THIS SUPPLEMENT. Your failure to comply with the terms of this Supplement is ground for termination for breach by NVIDIA under the SLA. This Supplement will automatically expire or terminate upon the expiration or termination of the SLA.
The terms set forth in this Virtual GPU Products Supplement ("Supplement") govern your use of the NVIDIA Quadro virtual Data Center Workstation (Quadro vDWS) Licensed Software and GRID Licensed Software (collectively, the "Virtual GPU Licensed Software") under the terms of your software license agreement ("SLA") as modified by this Supplement. This Supplement is an exhibit to the SLA and is hereby incorporated as an integral part thereto. Capitalized terms used but not defined herein shall have the meaning assigned to them in the SLA. In the event of conflict between the terms in this Supplement and the terms in the SLA, this Supplement shall control.

1. **LICENSING TERMS.** Under a Virtual GPU Licensed Software license the Authorized Users are licensed to access virtual desktops, except that under a GRID vApps Licensed Software license the Authorized Users are licensed to access only remote desktop session host (RDSH) based applications and desktops.

2. **LICENSE TYPES.** Virtual GPU Licensed Software licenses are licensed under the below license types; however only certain license types are available for each Virtual GPU Licensed Software. You are only licensed to activate and use Virtual GPU Licensed Software for which you have a valid license, even if during the download or installation you are presented with other product options. Your Order, license key and/or the product description will indicate the license features of your license.

   "Perpetual License" means a license that is exclusive of any services, provided that NVIDIA may further require the additional purchase of certain services for a minimum period. After the expiration of services you retain the right to use a perpetual license at the last-supported level subject to the terms of the AGREEMENT.

   "Subscription License" means a license with a fixed duration and inclusive of certain services for the duration of the license. You may have the option to use additional services at the end of the license. Based on NVIDIA’s then-current service offerings available for the Software.

   "Concurrent Users License" or "CCU" means a license that allows for concurrent Authorized Users to access or use the Software, provided that the maximum number of Concurrent Users for which you have a valid license, even if during the download or installation you are presented with other product options. Your Order, license key and/or the product description will indicate the license features of your license.

3. **LICENSE RESTRICTION.** You agree that you will not (nor authorize third parties to) disclose the results of any benchmarking or other competitive analysis relating to the Virtual GPU Licensed Software without prior written permission from NVIDIA.

4. **AUDIT.** During the term of the AGREEMENT and for a period of three (3) years thereafter, you will maintain all usual and proper books and records of account relating to the Virtual GPU Licensed Software provided under the AGREEMENT. During such period and upon written notice to you, NVIDIA or its authorized third party auditors subject to confidentiality obligations will have the right to inspect and audit your Enterprise books and records for the purpose of confirming your compliance with the terms of the AGREEMENT. Any such inspection and/or audit will be conducted during regular business hours and no more frequently than annually unless non-compliance was previously found. If such an inspection and/or audit reveals an underpayment of any amounts payable to NVIDIA, then you will promptly remit the full amount of such underpayment to NVIDIA, including interest that will accrue (without the requirement of a notice) at the lower of 1.5% per month or the highest rate permissible by law. If the underpaid amount exceeds five percent (5%) of the amounts payable to NVIDIA during the audited period and/or such an inspection and/or audit reveals a material non-conformance with the terms of the AGREEMENT, then you will pay NVIDIA’s reasonable costs and expenses of conducting the inspection and audit. Further, you agree that the party delivering the Virtual GPU Licensed Software to you may collect and disclose to NVIDIA information for NVIDIA to verify your compliance with the terms of the AGREEMENT including (without limitation) information regarding your use of the Virtual GPU Licensed Software.

5. **PRODUCT UPLIFT.** From time to time you may have the option to replace your Virtual GPU Licensed Software licenses for other Virtual GPU Licensed Software licenses. In such cases, you must discontinue using the replaced Virtual GPU Licensed Software licenses timely upon NVIDIA’s delivery of the replacement product. If requested in writing by NVIDIA, you will provide a written certificate signed by an authorized officer affirming your compliance with the terms of this section.

6. **EXPIRATION OF TERMINATION OF THIS SUPPLEMENT.** Your failure to comply with the terms of this Supplement is ground for termination for breach by NVIDIA under the SLA. This Supplement will automatically expire or terminate upon the expiration or termination of your rights to Virtual GPU Licensed Software under the SLA or this Supplement.