



# Standard Professional Services

## Terms and Conditions

The terms and conditions detailed herein together with the NI Standard Terms and Conditions of Sale available at [ni.com/legal](https://ni.com/legal) incorporated by reference in its entirety herein (“Agreement”), apply to your (“Customer”, “You,” and “Your”) purchase from NI of any of the Standard Professional Services described in this document (“Services”). “NI” means the National Instruments Affiliate identified on the quote, order acknowledgement, or invoice, or in the absence of an identified National Instruments Affiliate, National Instruments Corporation (a Delaware Corporation with headquarters at 11500 North Mopac Expressway, Austin, Texas 78759, USA). Customer agrees to be bound by the terms of this Agreement upon acceptance of the Services at the latest. In the event of a conflict of terms between this Agreement and the NI Standard Terms and Conditions of Sale, the terms of this Agreement will prevail. NI expressly objects to and rejects, and Customer expressly waives, any terms and conditions in Customer’s purchase order or other similar document.

### 1. Services

The Attachments below contain a list of the specific Services offered by NI under this Agreement. Each Attachment includes the description and limitations for each Service.

#### 1.1 Use of Services

In order to use the Services, Customer is required to contact NI or the local NI Affiliate for the outline of the applicable process for requesting Services. Contact details are available at [ni.com/niglobal](https://ni.com/niglobal).

#### 1.2 Acceptance

For all Services, NI deems Services accepted by Customer upon delivery of the Services as defined on each Estimated Delivery.

#### 1.3 Customer Prerequisite Actions

Customer must provide all prerequisite actions to NI for the applicable Service within 30 business days of NI’s Sales Order Acknowledgment (“SOA”). Any Prerequisite Action not delivered by the Customer on time will delay the completion of Services and NI reserves the right to delay the start of the project. If the delay extends for more than five business days NI reserves the right to cancel the provision of Services and will charge the Customer the proportional part of the Services performed, plus expenses incurred.

#### 1.4 Estimated Delivery

NI will use commercially reasonable efforts to meet the Estimated Delivery timeframe for each Service. Customer acknowledges and agrees that the Deliverables may require specialized skills, which may be subject to the availability of certain NI personnel, and/or require to comply Customer Prerequisite Actions by certain stipulated timeframes in order for NI to meet required Estimated Delivery. Consequently, Customer acknowledges and agrees that Estimated Delivery is only an estimate, and that NI is not responsible for delays. NI will, however, notify Customer of material delays and the steps NI is taking to address such delays.

#### 1.5 Updates

NI will make commercially reasonable efforts to provide Customer with updates regarding the purchased Service every 10 business days.

## **2. Payment Terms**

Payment is due as specified on NI's quotation. If Customer is approved for credit, payment shall be due within the number of days from the date of invoice stated in the quotation. Payment shall be in the currency listed on the NI invoice. Prices exclude, and Customer is responsible for, any sales, use, service, value added, and taxes arising from the purchase of Services. In addition, in case the payment, in whole or in part, does not occur within the agreed term, NI reserves the right to suspend deliveries or services in relation to all contracts with the given Customer until the date on which the balance is fully paid.

NI will issue an invoice for the Services according to the applicable quote and Customer PO. NI will invoice the fees for services either (i) upon completion of the Services, (ii) upon completion of the respective milestone as described in the corresponding Exhibit, or (iii) upon termination of this Agreement. Invoiced services generally include preparation and follow-up time.

## **3. Intellectual Property (IP) Rights**

NI will retain exclusive ownership of all Intellectual Property Rights (meaning rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, licenses, and any other form of protection afforded by law to inventions, models, designs, technical information, and applications) embedded in the Services or developed by NI while providing Services under this Agreement. NI and Customer will retain all IP that it owned or controlled prior to entering into this Agreement; NI will retain all IP with respect to the processes, tools, and software it uses to perform the Services; and all IP that it develops or acquires from activities independent of its performance under this Agreement. Any use by Customer, including reverse engineering, decompilation, reproduction, modification, distribution, transmission, republication, display, transfer, or performance is prohibited, except as expressly permitted by NI in writing or specifically permitted by a mandatory provision of the applicable law.

## **4. Customer Responsibilities**

To achieve a smooth and successful implementation, Customer will:

- 4.1. Provide all requested information and other materials in a timely manner as requested by NI to perform the Services;
- 4.2. Actively participate in requirements definition(s) and respond to NI personnel questions;
- 4.3. Provide a purchase order for the items in the respective quote;
- 4.4. Arrange access to people, facilities, equipment, documentation, software, and other tools for NI engineers as required to deliver Services.

## **5. License**

Any code provided under this Agreement is subject to the terms and conditions of the NI Software License Terms (Sample Code), which is incorporated by reference in its entirety herein, available at [ni.com/samplecodelicense](https://ni.com/samplecodelicense).

## **6. Customer Provided Materials**

With respect to any materials, documentation, and software that Customer provides to NI for the purpose of providing Services to Customer ("Customer Provided Materials"), Customer represents that: (i) Customer has the right to provide the Customer Provided Materials to NI for such purpose; (ii) the Customer Provided Materials do not contain or generate any computer "viruses," "time bombs," "worms," "trap doors," or other programs, software, information, instructions, code, or commands designed or likely to cause damage to, or enable or facilitate unauthorized access to, software, data, or files; (iii) unless otherwise first agreed in writing by NI, the Customer Provided Materials do not contain or generate any programs, software, or code that is subject to a license that requires, or purports to require, as a condition of use, modification, or distribution, that (a) the code that is or

could become subject to the license, be disclosed or distributed in source code form, or (b) others have the right to modify or create derivative works of the code that is or could become subject to the license.

## **7. Technical Data**

Customer represents and warrants that the Services do not require the disclosure by Customer to NI of any sensitive or export controlled technology or technical data identified on any U.S. export control list and or other applicable export control lists, including but not limited to the U.S. International Traffic in Arms Regulations, U.S. Export Administration Regulations, and so forth. Customer is responsible for notifying NI and receiving confirmation in writing by NI to agree to receive such data prior to sending it. NI DOES NOT ACCEPT SENSITIVE OR EXPORT CONTROLLED INFORMATION WITHOUT PRIOR CONFIRMATION IN WRITING BY NI. CUSTOMER SHALL INDEMNIFY AND HOLD NI HARMLESS FOR ALL CLAIMS, DEMANDS, DAMAGES, COSTS, FINES, PENALTIES, ATTORNEY'S FEES, AND ALL OTHER EXPENSES ARISING FROM CUSTOMER'S FAILURE TO COMPLY WITH THIS CLAUSE.

## **8. Restrictions for Engineering Services**

Customer may not utilize services for the performance of "defense services" as defined by International Traffic In Arms Regulations 22 CFR 120.9. NI will only perform services based on its understanding and condition that the goods or services (i) are not for the use in the production or development of any item produced, purchased, or ordered by any entity with a footnote 1 designation in the license requirement column of Supplement No. 4 to Part 744, U.S. Export Administration Regulations and (ii) such a company is not a party to the transaction.

## **9. Out of Scope Services**

Services under this Agreement do not include, inter alia:

- 9.1. Services or support on the end application or system level. Customer is ultimately responsible for verifying and validating the suitability and reliability of the Services whenever the results of the Services are incorporated in its system or application, including the appropriate design, process, and safety level of such system or application;
- 9.2. Services related to third-party products;
- 9.3. Development of any turnkey solution.
- 9.4. Updates or maintenance of the Services deliverables; and
- 9.5. Any entitlement to access any other NI Services.

## **10. Warranty**

NI warrants that the Services will be performed in a good and workmanlike manner. Unless agreed otherwise, NI makes no other express or implied warranties with respect to the Services, including but not limited to (i) any warranty concerning the results to be obtained from the Services or (ii) the results of any recommendation NI may make, including without limitation any implied warranties concerning the performance, merchantability, suitability, non-infringement, or fitness for a particular purpose of any of the deliverables or of any system that may result from the implementation of any recommendation NI may provide. In order to receive warranty remedies, deficiencies in the Services must be reported to NI in writing within six (6) months of completion of the Services. If NI receives notice of a defect or nonconformance during the above-mentioned period, NI will, in its discretion:

- i. Re-perform the affected Services; or
- ii. Refund the fees paid for the affected Services.

## **11. Liability**

NI WILL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL THE AGGREGATE LIABILITY FOR DAMAGES OF NI, ITS EMPLOYEES OR AGENTS, ARISING FROM THESE TERMS WHETHER BY CONTRACT OR TORT EXCEED THE AMOUNTS CUSTOMER ACTUALLY PAID NI FOR THE SERVICES.

## **12. Security of On-site Services**

For any Services to be performed on Customer's site, Customer agrees to (i) provide NI with or arrange reasonable access to applicable documents, tools, equipment, facilities, and systems of Customer for NI to provide Services; (ii) provide a safe work environment for NI personnel; (iii) promptly inform NI of any safety hazards of which Customer becomes aware that may impact NI personnel; and (iv) notify NI of any on-site policies that may be applicable to NI while performing such Services. NI will communicate to Customer its ability to comply with such policies as well as the potential impact on the scope and price of the Services involved. Customer further agrees to exercise utmost care and diligence and develop an effective security program to maintain the site in good and safe conditions at all times in order to prevent any injuries, deaths to NI personnel who work at the site of Customer, and damages and losses to all products delivered by NI that are stored at the site of Customer arising from or as a result of any theft, arson, vandalism, or any other malicious activities of any third party.

## **13. Geographic Limitation**

Services offerings may vary globally according to the laws and regulations of the country in which the service is offered. Service options and on-site response times will vary by geography and certain options may not be available for purchase in Customer's location. THE OBLIGATION OF NI TO SUPPLY THE SERVICES IS SUBJECT TO LOCAL SERVICE AVAILABILITY AND MAY BE SUBJECT TO ADDITIONAL FEES.

## **14. Project Manager**

Both Parties will designate and provide a project manager who (i) will act as the formal point of contact between the Parties for all communications and any modifications to the scope, requirements, or responsibilities; (ii) will coordinate all activities to be performed; and (iii) will have the responsibility and authority to act on behalf of that Party relating to the Services ("Project Manager").

## **15. Expiration, Termination**

15.1 Unless specified otherwise in the SOA, invoice, or other document provided by NI, Customer has the right to request NI's performance of the Services within one (1) year from the SOA date.

15.2 Either Party may terminate this Agreement for convenience by providing ten (10) days written notice to the other Party. If Customer terminates the Agreement for convenience, a penalty fee of 50% of the quoted price will be charged. Either Party may terminate this Agreement if the other Party commits a material breach of the Agreement and the breach is not cured within thirty (30) days of receipt of written notice from the injured Party. NI will invoice Customer for the Services carried out until the date the notice of termination is received or delivered.

## **16. Miscellaneous**

This Agreement, including the terms referenced and incorporated herein and any appendices, constitutes the entire agreement as to the subject matter herein and supersedes all prior or contemporaneous communications or understandings, whether oral or written, between the Parties. This Agreement may NOT be altered, supplemented, or amended by the use of any other document(s) unless otherwise agreed to in writing by NI. A waiver of any provision of this Agreement shall not be construed as a waiver or modification of any other term herein. If any part, term, or provision of this Agreement is held illegal, unenforceable, or in conflict with any

applicable and enforceable law, the validity of the remaining portions or provisions of this Agreement shall not be affected.

#### **17. Changes to this Agreement**

NI reserves the right to change the terms of this Agreement without any notification to the Customer, and Customer is bound to accept such changes, when effective. When becoming aware of any change of this Agreement, Customer has the right to raise its concerns to NI in writing within ten (10) business days from the date of such actual or presumed awareness. If no notices are received, it will be deemed that Customer has accepted all such changes without any reservation. However, all Services purchased by the Customer before such changes will be governed by the terms of the Agreement effective at the time of purchase.

## Attachment A. Lifecycle Analytics Services.

A.1 Lifecycle Analytics –System and Data Integration Service: A team of NI engineers using NI technology, including but not limited to NI hardware and software (NI Products) and led by a project manager, will deliver services that produce a data solution at Customer’s site. This data solution will consider how the Customer accesses the data on its network infrastructure and include a method to improve such access. This data solution will include:

- Installation to server: The installation of the data solution could be on the Customer internal server, Customer controlled server or Customer Virtual Private Cloud (“VPC”), at the Customer’s designated site.
- Customer sites: Up to 1.
- Customer Nodes: This service will only cover data collection for up to 5 test systems. For the purposes of this Agreement, Nodes means, a single entity (test station), owned by the Customer, that is a data source in this data solution.
- Key Performance Indexes: Up to 1 vector of standard uses (First Pass Yield (“FPY”), asset, software).
- Data Sources: This service will only include 1 data source. Data source will only be collected from NI’s TestStand.
- Data Transport and Network: Up to 1 Customer site in any region, as defined by NI (Americas, EMEA, APAC) on Customer network. For the purposes of this Agreement, Data Transport and Network means, the Customer’s method of transporting the data from the internal network to the server.
- Dashboards and reports: Configuration of out-of-the-box standard reports that could be shipped with SystemLink.

A.1.2 Estimated Delivery: Up to 70 business days from NI’s SOA date.

A.2 Lifecycle Analytics – Enterprise System and Data Integration Service: A team of NI engineers using NI technology, including but not limited to NI hardware and software (NI Products) and led by a project manager, will deliver services that produce a data solution for multiple Customer sites. This data solution will consider how the Customer accesses the data on its network infrastructure and include a method to improve such access. This data solution will include:

- Installation to Server: The installation of the data solution could be on the Customer internal server, Customer controlled server, VPC, Customer external Amazon Web Services (“AWS”), hosted Mongo/Postgres, or Infosec security team, at the Customer’s designated site.
- Customer Sites: Up to 2.
- Client Nodes: This service will only cover data collection up to 15 test systems.
- Key Performance Indexes: Up to 2 prime uses (FPY, asset, software).
- Data Sources: This service will only include 1 data source. Data source will be collected from NI’s TestStand or the Customer’s custom parser.
- Data Transport and Network: Up to 2 Customer sites in any region, as defined by NI (Americas, EMEA, APAC) on Customer network.
- Dashboards and Reports: Up to 2 configured reports based on out-of-the-box standard reports that could be shipped with SystemLink.

A.2.2 Estimated Delivery: Up to 100 business days from NI’s SOA date.

A.3 Customer Prerequisite Actions: Customer will provide NI with:

- Server ready for installation, equipped with minimal specifications provided by NI;
- Remote access to applicable servers and test machines;
- Data samples and descriptions of data;
- In compliance with Section 12 of this Agreement, access to those sites and site assets that are relevant for the completion of Services;
- Define at least 2 Points of Contact (“POCs”) with the following conditions:
  - o Capable of enabling NI’s access the information required to complete the Services throughout the project schedule;
  - o Committed availability during the project schedule;

- o Sufficient knowledge of the Customer application to enable the service including but not limited to network topography, data, performance indexes.
- Deprioritization and/or re-assignment of customer project resources that cause significant project delay may cause project cancellation.

#### A.4 Milestones for A1 and A2:

Through online or on-site meetings, the project team will:

- a. Assess the Customer server installation options and topography of the Customer's network infrastructure;
- b. Evaluate the data formats for content and generation types;
- c. Develop a plan proposal that reflects the data format objectives for results, validation, and software, and addresses the key performance indexes for the facilities and analysis needed;
- d. Install, configure, deploy aspects of the enterprise data solution, and invoice 50% of the total amount of services on the order;
- e. Provide training (as described in Section A.5);
- f. Provide start-up assistance services, (as described in Section A.5); and
- g. Provide a final presentation covering the project schedule and details implemented throughout the project, intellectual property created, an accessible data dashboard, training on the use of the data solution, start-up assistance services for the data solution, and invoice the remaining total amount of services on the order.

#### A.5 Deliverables: NI will deliver to Customer:

- PDF – Final Presentation (PDF file).
  - o Project schedule review.
  - o Detailed summary (Modeled data, developed parsers and ingested data).
- Server and client installations of related software technologies.
- Source Code for data parsers
- Data dashboard (Web interface on Server).
- 1 training session from 4 to 8 hours and for up to 10 people (instructor-led session covering usage of dashboard and web portal).
- Start-up assistance after final presentation.
  - o NI engineers will schedule 4 weekly 1 hour calls following the final presentation to discuss goals and next steps with the Customer.
  - o Additional recommendations will be provided to the Customer in connection with the weekly discussions.
  - o During these 4 weeks, NI engineers will use up to 20 hours for Lifecycle Analytics –System and Data Integration Service and 40 hours for Lifecycle Analytics – Enterprise System and Data Integration Service to investigate potential issues with the data solution, formulate recommendations, and provide guidance/follow-up/recommendations to the Customer on these data solution relevant topics.

## Attachment B. Test Insights Consultation Service.

B.1 Test Insights Consultation Service: A team of NI engineers, will discover and report how Customer testing business could improve, removing inefficiencies and improving project timelines. NI engineers may utilize the interview method, defined as a meeting with up to 5 customer personnel at a time for up to 2 business hours, and/or the workshop method, defined as a meeting of multiple functional groups with up to 15 customer personnel at a time for up to 8 business hours, to perform the discovery and gain the knowledge from the Customer to perform these services. This consultation Service will include:

- Limited to 1 Customer site in any region, as defined by NI (Americas, EMEA, APAC).
- Customer Functional Groups limitations: For the purposes of this Agreement, Functional Groups means, groups within the Customer organization that measures data related to the products manufactured by the Customer, including but not limited to production test, bench test/R&D, product validation test, test engineering, manufacturing test. This Service is limited to 6 Functional Groups.
- Interviews may be scheduled by the project team, not to exceed 20, and an optional workshop may be scheduled at NI's discretion for the purposes of these services.
- This consultation Services will cover 1 testing business objective, such as testing business improvement, removal of inefficiencies or improving project timelines. The testing business objective will be discussed and agreed by both parties.

### B.2 Procedure

Through workshops and interviews the project team will:

- a. Discover, assess and characterize Customer processes, tools, and workflows in test that create inefficiency in engineering, cause excessive maintenance burdens, and delay time to market;
- b. Engage with managers and engineers of the Customer's test organization to complete the workshop and interviews; and
- c. Provide documentation with the test business assessment, impact on business performance, potential return on investments (if addressed), and rudimentary proposal for mitigation of test business.

### B.3 Customer Prerequisite Actions: Customer needs to provide NI with:

- List of department managers and engineering team leads applicable to the test engineering function; and
- Accompanied access to Customer site(s) applicable to the services being delivered in compliances with Section 12 of this Agreement.
- Define at least 2 Points of Contact ("POCs") with the following conditions:
  - o Capable of enabling NI's access the information required to complete the Services throughout the project schedule;
  - o Committed availability during the project schedule;
  - o Sufficient knowledge of the Customer application to enable the service including but not limited to test infrastructure, test software framework, test process

### B.4 Milestones for B.1:

Through online meetings and on-site workshop, the project team will:

- Assess the Customer test infrastructure and processes through a series of interviews;
- Create a debrief document of the results of those interviews;
- Develop a plan proposal that reflects the project scope, staffing, timelines, and implementation costs needed;
- Advance alignment across test teams and invoice 50% of the total amount of services on the order;
- Provide a final presentation covering the root causes of business symptoms with suggested mitigations, planning, and invoice the remaining total amount of services on the order; and



- Provide post deployment support (as described in Section B.5).

B.5 Deliverables: NI will deliver to Customer:

- Test Insights Report (PDF file).
  - o Project schedule review.
  - o Test business assessment.
  - o Return Of Investment (ROI) Assessment (if addressed).
  - o Rudimentary proposals for mitigation of the findings.
- Post-delivery support
  - o NI engineers will schedule 4 weekly 1 hour calls following the final presentation to discuss goals and next steps with the Customer.

During these 4 weeks, NI engineers will use up to 10 hours to provide guidance/follow-up/recommendations to the Customer on the test insights relevant topics.

B.5 Estimated Delivery: Up to 100 business days from NI's SOA date.

## Attachment C. Standard Integration Services.

C.1 Software Update Service: An NI engineer reviews the installed NI software on the desired test system, assesses viable paths to update the NI software to a defined revision, and installs the desired updated software on the test system, validates and documents test system functionality, updates the customer's provided test application, corrects any run-time errors and documents any modifications or changes to the application in a delivery report.

C.1.1 Customer Prerequisite Actions: Customer needs to provide NI with:

- Access to test system.
- Source code of test program.
- Confirmation of the version of software desired.

C.1.2 Deliverables: NI will deliver to Customer:

- Archive file containing:
  - Original:
    - Test program source code.
    - Test system exported MAX Report.
  - Updated:
    - Test program source code.
    - Test system exported MAX Report.
- Documented requirements.
- Delivery Report.
- Test results.

C.1.3 Estimated Delivery: Up to 40 business days from NI's SOA date.

C.2. System Upgrade Service: An NI engineer gathers requirements that define the desired feature or function to be added to the test system. The NI engineer assesses the complexity of adding the defined feature or function to the existing test system, and either (i) provides the recommended plan to the customer and guides the customer to implement the defined feature or functionality while providing best practices for updating. The Service may include the work on and provision of certain Sample Code; or (ii) implements the defined feature or functionality into the test system, validates it against the requirements, and documents the changes in a delivery report.

C.2.1 Customer Prerequisite Actions: Customer needs to provide NI with:

- Access to test system.
- Source code of test program.
- Requirements of desired feature or functionality.

C.2.2 Deliverables: NI will deliver to Customer:

- Archive file containing:
  - Original:
    - Test program source code.
  - Updated:
    - Test program source code.

- Documented requirements.
- Delivery Report.
- Revised User Manual.

C.2.3 Estimated Delivery: Up to 40 business days from NI's SOA date.

C.3. Operator Interface Customization Service: An NI engineer gathers requirements that define the desired behavior and functionality of the operator interface, assesses the complexity of the development effort, produces a plan to implement, and implements the defined feature or full operator interface, validates its functionality against the requirements, and documents the functionality of the operator interface in a user manual.

C.3.1 Customer Prerequisite Actions: Customer needs to provide NI with:

- Source code of existing OI (if applicable).
- Requirements of desired feature.

C.3.2 Deliverables: NI will deliver to Customer:

- Archive file containing:
  - Original:
    - OI Source Code (if applicable).
  - Updated:
    - OI Source Code.
    - Compiled OI executable.
- Delivery Report
- Test results
- New or Revised User Manual

C.3.3 Estimated Delivery: Up to 40 business days from NI's SOA date.

B.4. DIAdem Data Plugin Development Service: An NI engineer gathers the requirements of the request plugin, implements and tests the functionality of the plugin against the requirements, and documents the functionality of the plugin in a user manual.

C.4.1 Customer Prerequisite Actions: Customer needs to provide NI with:

- Data file.
- Version of DIAdem.
- Requirements for data plugin.

C.4.2 Deliverables: NI will deliver to Customer:

- Archive file containing:
  - Source code of plugin.
  - Documented Requirements.
  - Test results.
  - User Manual.

C.4.3 Estimated Delivery: Up to 5 business days from NI's SOA date.

C.5 HIL Test Equipment Integration Service: An NI engineer gathers the requirements for the requested test equipment functionality, assesses the complexity of the integration effort, develops a plan to perform the integration, implements the plugin necessary to integrate the test equipment, tests the functionality of the plugin against the requirements, and documents the functionality of the plugin in a user manual.

C.5.1 Customer Prerequisite Actions: Customer needs to provide NI with:

- Sensor specifications.
- Version of Software.
- Requirements for plugin.

C.5.2 Deliverables: NI will deliver to Customer:

- Archive file containing:
  - Source code of plugin.
  - Documented Requirements.
  - Test results.
  - User Manual.

C.5.3 Estimated Delivery: Up to 25 business days from NI's SOA date.

C.6 Sensor Integration Service: An NI engineer gathers the requirements for the requested sensor data, assesses the complexity of the integration effort, develops a plan to perform the sensor integration, implements the plugin necessary to integrate the sensor data into the test system, tests the functionality of the plugin against the requirements, and documents the functionality of the plugin in a user manual.

C.6.1 Customer Prerequisite Actions: Customer needs to provide NI with:

- Sensor specifications.
- Version of Software.
- Requirements for plugin.

C.6.2 Deliverables: NI will deliver to Customer:

- Archive file containing:
  - Source code of plugin.
  - Documented Requirements.
  - Test results.
  - User Manual.

C.6.3 Estimated Delivery: Up to 25 business days from NI's SOA date.