

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM747355

SUBMISSION TYPE:	RESUBMISSION		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
RESUBMIT DOCUMENT ID:	900696803		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Longsand Limited		01/01/2022	Corporation:
RECEIVING PARTY DATA			
Name:	Dart UK Newco Limited		
Street Address:	The Lawn, 22-30 Old Bath Road		
City:	Berkshire		
State/Country:	ENGLAND		
Postal Code:	RG14 1QN		
Entity Type:	Company: ENGLAND		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	5580812	DIGITAL SAFE	
Registration Number:	2931096	DIGITAL SAFE	
CORRESPONDENCE DATA			
Fax Number:			
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	312-862-3210		
Email:	joe.phu@kirkland.com		
Correspondent Name:	Joe Phu		
Address Line 1:	300 North LaSalle		
Address Line 2:	KIRKLAND & ELLIS LLP		
Address Line 4:	Chicago, ILLINOIS 60654		
ATTORNEY DOCKET NUMBER:	49555-9		
NAME OF SUBMITTER:	Joe Phu		
SIGNATURE:	/Joe Phu/		
DATE SIGNED:	08/10/2022		
Total Attachments: 11			
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DEED OF ASSIGNMENT OF INTELLECTUAL PROPERTY

This deed of assignment of intellectual property (the "Deed") is made on 1 January 2022

BETWEEN

- (1) **LONGSAND LIMITED** incorporated in England with registered number 04598955 and whose registered address is at The Lawn, 22-30 Old Bath Road, Newbury, Berkshire, England, RG14 1QN; (the "Transferor"); and
- (2) **DART UK NEWCO LIMITED** a company registered in England and Wales with registered number 13684286 and having its registered office at The Lawn, 22-30 Old Bath Road, Newbury, Berkshire, England, RG14 1QN (the "Transferee"),

(each a "Party" and together the "Parties").

RECITAL

- 1.1 Micro Focus International Plc and Smarsh Inc. are parties to the GBTA (as defined below) relating to the sale and purchase of the Business (as defined below), including the Business Product and the Business Intellectual Property (as defined below).
- 1.2 The Transferor owns all right, title and interest in the Business Intellectual Property and the Shared Copyright (apart from the Business Intellectual Property and Shared Copyright which will be assigned under the UK Local APAs (as defined in the GBTA)) and pursuant to clause 2.3.2 of the GBTA, the Transferor wishes to assign its right, title and interest in or to (i) the Business Intellectual Property; and (ii) a co-ownership interest in the Shared Copyright, of which it is the owner, and the Transferee wishes to accept such assignment, on the terms set out in this Deed.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

- 1.1 The following terms have the meanings ascribed thereto when used in this Deed:

Business means the archiving and risk management business as has been carried on by any member of the Seller Group in the 24 months immediately prior to Completion which comprises the licensing, marketing, development, research, creation, deployment, distribution, sale, commercialization, exploitation of, and other business activities relating to, the Business Products.

Business Intellectual Property means the Intellectual Property owned by the Transferor which is exclusively related to the Business or exclusively related to a Business Product (including the Intellectual Property subsisting in Business Data and Business Registered IP but excluding any Intellectual Property in and to the Seller Marks).

Business Product means the proprietary software products listed in Schedule 13 of the GBTA (excluding, for the avoidance of doubt, Message Compliance Manager, ArcSight and PAM) including all prior versions and current versions thereof in the possession or control of the Seller Group, and all future versions thereof, and whether in source code, object code or other form, and in each case together with any and all (i) supplements, modifications, updates, corrections and enhancements to such proprietary software products, (ii) documentation, including user manuals, training documentation and work products and (iii) to the extent they are incorporated into, or otherwise exclusively associated with, a Business Product, databases and compilations (including any and all data and collections of data), relating to any of the foregoing.

GBTA means the global business transfer agreement entered into between Micro Focus International Plc and Smarsh Inc. on 2 November 2021 (as the same may be amended, varied or modified from time to time).

Intellectual Property means all intellectual property rights including patents, rights in inventions, trade marks, trade names, business names, service marks, rights in domain names and URLs, social media identifiers and accounts, rights to sue for passing off and in unfair competition, Know-how, design rights, copyright (including in software), works of authorship, rights in databases and other sui generis rights, rights in opposition proceedings, and all other rights of the same or similar effect or nature as any of the foregoing in any part of the world, in each case whether registered or unregistered and including applications for the grant of any such rights, and where such rights are obtained or enhanced by registration, any registration or extension of such rights and applications and rights to apply for such registrations and extensions.

Know-how means existing and available industrial and commercial information and techniques in any form not in the public domain, including know-how, data, techniques, drawings, specifications, processes and formulae, test results, reports, project reports and testing procedures, instruction and training manuals, tables of operating conditions, market forecasts, lists and particulars of customers and suppliers, source code and software, and all other trade secrets and confidential business information.

Seller Marks means the name “Micro Focus” and any other trade marks and service marks, including any rights in corporate names, trade names, logos and slogans, together with the goodwill associated with any of the foregoing, whether registered, unregistered or the subject of an application, of the Seller Retained Group which are not Business Intellectual Property.

Shared Copyright has the meaning ascribed to it in the GBTA.

1.2 Unless defined herein, all defined terms shall have the same meaning as in the GBTA.

1.3 In this Deed:

1.3.1 references to a clause are (unless otherwise stated) to a clause of this Deed;

1.3.2 any reference to any time or date shall be construed as a reference to the time or date prevailing in England;

1.3.3 general words such as “include”, “including” and “in particular” shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by general words; and

1.3.4 any reference to the singular shall include the plural and *vice versa*.

1.4 The headings in this Deed are for convenience only and shall not affect its meaning.

2. TRANSFER

2.1 In consideration of the transfer by the Transferee to the Transferor of MHC Notes with an aggregate nominal value equal to US\$294,612,736, with effect on and from the date of this Deed, the Transferor hereby irrevocably assigns, transfers, conveys and delivers to the Transferee absolutely by way of present assignment of current and future works:

2.1.1 all of the Transferor's legal and beneficial rights, title and interest in and to the Business Intellectual Property including the registered trade marks and trade mark applications listed in Schedule 1 (the "**Transferring Trade Marks**"), and the goodwill associated therewith (whether statutory, common law or otherwise), including for the Transferee's own use and enjoyment, and for the use and enjoyment of the Transferee's successors and assigns, for the full duration of all such rights, and any renewals and extensions thereof, as fully as the same would have been held by the Transferor had this Deed not been made;

2.1.2 all of the Transferor's legal and beneficial rights, title and interest in and to such share of the Shared Copyright as will result in the Transferor and the Transferee becoming co-owners of the Shared Copyrights in equal, undivided shares, including for the Transferee's own use and enjoyment, and for the use and enjoyment of the Transferee's successors and assigns, for the full duration of all such rights, and any renewals and extensions thereof, as fully as the same would have been held by the Transferor had this Deed not been made; and

2.1.3 the sole right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief (and to recover and retain any past, present, and future damages) in respect of any infringement, or any other cause of action arising from ownership, of any of the Business Intellectual Property and transferring Shared Copyright whether occurring before, on, or after the date of this Deed.

(the “**Transfer**”).

2.2 Where any part of the Business Intellectual Property or transferring Shared Copyright which is the subject of clause 2.1.1 does not fully vest in, or assign to, the Transferee under

clause 2.1 (for any reason), the Transferor shall hold such Business Intellectual Property or transferring Shared Copyright on trust for the sole use of the Transferee and shall maintain such Business Intellectual Property for the sole use of the Transferee until such Business Intellectual property or transferring Shared Copyright can be fully assigned to the Transferee.

- 2.3** The Transferor shall, and shall use all reasonable endeavours to procure that any relevant third party (including any other members of the Seller Group) shall, at the request of the Transferee and sole cost of the Transferor, promptly execute and deliver such other documents and perform all such further acts as may be reasonably required by the Transferee from time to time for the purpose of giving full effect to this clause 2.
- 2.4** The Transferor appoints the Transferee to be its attorney in its name and on its behalf solely to execute documents, use the Transferor's name and do all things which are reasonably necessary for the Transferee to assign the Transferring Trade Marks to, or fully vest the same in, itself. This power of attorney is irrevocable and is given by way of security to secure the performance of the Transferor's obligations under this Deed and the proprietary interest of the Transferee in the Transferring Trade Marks being assigned under this Deed. So long as the Transferring Trade Marks have not been assigned to, or fully vested in, the Transferee, the power may not be revoked by the Transferor, save with the consent of the Transferee. The Transferor undertakes to ratify and confirm everything that the Transferee does or arranges or purports to do in good faith in exercise of any power granted under this clause.
- 2.5** The Parties acknowledge and agree that the Transfer is made subject to any valid licences granted by the Transferor (or any other member of the Seller's Group) to a third party (being a person who is not a member of the Seller's Group) prior to the date of this Deed in the ordinary course of business.
- 2.6** The Transferee shall have the sole responsibility, at its sole cost and expense, to file the forms or documents as required to record the assignment of the Business Intellectual Property or transferring Shared Copyright from the Transferor to the Transferee.
- 2.7** Except as otherwise provided in the GBTA (including Schedule 3 (Seller Warranties) of the GBTA) and this Deed, the Parties acknowledge and agree that the Transfer is granted on an "as-is" basis and the Transferor hereby disclaims all representations or warranties of any kind, either express or implied, including any warranty of merchantability, fitness for a particular purpose, non-infringement or any other matter with respect of the Business Intellectual Property and transferring Shared Copyright assigned under this Deed.
- 2.8** The Parties hereby acknowledge and agree that the Business Intellectual Property does not include any Intellectual Property which is licensed or otherwise provided pursuant to the Commercial Agreements (as defined in the GBTA).
- 2.9** With respect to the Shared Copyright, the Parties acknowledge and agree that:

2.9.1 the Transferor and Transferee shall each be free to assign, grant security over, license and otherwise exploit the Shared Copyright without requiring the consent of the other and without requiring notice to be given to the other, and accordingly sections 16(2) and 173(2) of the UK's Copyright, Designs and Patents Act 1988 (and any analogous legislation in any other jurisdiction or territory) are hereby disapplied for these purposes;

2.9.2 neither the Transferor nor Transferee shall be permitted to obtain (or apply to obtain) registered copyright protection in relation thereto without first seeking and obtaining the consent of the other; and

2.9.3 the Transferor or Transferee (as applicable) shall promptly give written notice to the other of any actual, threatened or suspected infringement of the Shared Copyright by any third party or of any allegation made that the use of the Shared Copyright infringes the rights of any third party.

3. SUCCESSORS AND ASSIGNS

This Deed and all the provisions hereof shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing herein, express or implied, shall give or be construed to give to any person, other than the Parties and such permitted assigns, any legal or equitable rights hereunder.

4. SEVERANCE

If any provision or part-provision of this Deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted and replaced by such valid, legal and enforceable provision as comes closest to the economic intent and purpose of the invalid, illegal or unenforceable provision. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Deed.

5. CONFLICT WITH OTHER AGREEMENTS AND ENTIRE AGREEMENT

5.1 The provisions of the GBTA remain unaffected by this Deed. If and to the extent that any provision of this Deed conflicts with the provisions of the GBTA, the GBTA shall prevail and the conflicting provisions should be interpreted in accordance with the GBTA.

5.2 Subject to clause 5.1, this Deed, the GBTA and the UK Local APAs constitute the entire agreement and understanding between the Parties and supersede any prior agreement (whether oral or written) in relation thereto.

6. VARIATION

No variation of this Deed shall be effective unless it is in writing and signed by or on behalf of all the Parties to it.

7. COUNTERPARTS

This Deed may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Deed may be executed by .pdf signature, and a .pdf signature will constitute an original for all purposes.

8. GOVERNING LAW AND JURISDICTION

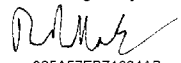
8.1 This Deed, and any disputes arising out of or relating to this Deed, will be governed by and construed under the laws of England and Wales, provided that the in rem transfer of any Intellectual Property hereunder shall be governed by and construed under the laws governing the respective Intellectual Property.

8.2 The parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales in respect of any claim, dispute or difference arising out of or in connection with this Deed and/or any non-contractual obligation arising in connection with this Deed.

This **DEED** has been duly executed on the date set out above.

EXECUTED as a DEED
By **LONGSAND LIMITED**
acting by two Directors

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Director

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Director

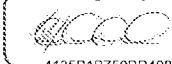
EXECUTED as a DEED by
DART UK NEWCO LIMITED
acting by two Directors

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Director

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Director

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By **LONGSAND LIMITED**)
acting by two Directors)
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EXECUTED as a DEED by)
DART UK NEWCO LIMITED)
acting by two Directors)
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EXECUTED as a DEED)
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 acting by two Directors)
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EXECUTED as a DEED by)
DART UK NEWCO LIMITED)
 acting by two Directors)
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) *Bradley Jose*
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) Director

SCHEDULE 1
REGISTERED TRADE MARKS

Mark	Application/Registration Number	Country	Proprietor	Status
DIGITAL SAFE	1891176	Canada	Longsand Limited	Under examination
DIGITAL SAFE	2236818	EU	Longsand Limited	Registered
DIGITAL SAFE	00902236818	UK	Longsand Limited	Registered
DIGITAL SAFE	5580812	USA	Longsand Limited	Registered
DIGITAL SAFE	2931096	USA	Longsand Limited	Registered