

CA Europe Sarl (“CA”)**LICENSE TERMS AND CONDITIONS FOR CHANNEL END USERS (“Terms”)**

These Terms are applicable to end users of CA Software (as defined below) obtained from a CA channel partner (“CA Partner”). By using the CA Software, the end user named therein (“You or “Your””) confirms that it has read and agrees to these Terms. These Terms supersede any other license agreement of the CA Software including any license embedded in the CA Software which shall not apply to You.

You understand and agree that Your right to use CA software programs ordered by You (and any fixes, patches, updates, upgrades, or other software provided to You as part of Maintenance (“CA Software”) and to obtain CA provided maintenance and support (“Maintenance”) is subject to Your compliance with these Terms, the Notification Form, the CA support policy and terms located at <http://support.ca.com>; and in addition for distributed CA Software the relevant Specific Program Document (“SPD”) for such CA Software and Maintenance which is located at <http://www.ca.com/licenseagreement> (collectively, these documents are referred to as the “Agreement”). The SPD applicable to You for the CA Software licensed and Maintenance purchased by You will be those that are in effect at the time that You acquire the license to the CA Software and/or Maintenance and shall remain binding upon both You and CA for that CA Software, Maintenance absent mutual written agreement to the contrary.

1. **License Grant.** Subject to Your compliance with the Agreement, CA grants to You in the country or region specified in the Channel Notification Form in the Section entitled “Customer Installation Location” or if none is specified then the country in which you receive the CA Software (the “Territory”) a limited, non-exclusive, non-transferable license to use the CA Software (and any fixes, patches, updates, upgrades, or other software received by You as part of Maintenance) in object form and solely for Your internal business purposes. Such use shall extend to use by You and Your Authorized End Users. “Authorized End Users” means You and Your Affiliate’s employees and independent contractors (but excluding any outsourcer, facilities management providers or application service provider). Use of the CA Software by Authorized End Users shall at all times remain Your responsibility and liability. You may use the CA Software for the operation of Your Affiliate’s internal data processing where an “Affiliate” shall mean any entity for which You hold greater than a fifty percent (50%) interest or, by force of law or contract but only for so long as you maintain that interest. The type of license You acquire is designated in the Channel Notification Form for the CA Software and may include:
 - a. **Perpetual License:** A perpetual license to use the CA Software, which may only be terminated as set forth in Section 8 herein.
 - b. **Subscription License:** A license to use the CA Software for a specific length of time (the “Term”) as set forth in the applicable Channel Notification Form. When the license expires at the end of the Term, You and Your Authorized End Users must stop using the CA Software if You have not obtained a new license.

In either case, if Your license is for CA Software designated as “mainframe software” by CA, use of such CA Software shall be limited to the hardware, site and/or location within the Territory specified in the Channel Notification Form and if none then the Territory shall be the country in which You purchased the license of the CA Software. You may transfer such CA Software to new hardware, site or location within the Territory upon prior written notice to CA. Transfers outside of the Territory shall require prior written consent of CA and payment of additional fees.

2. **Use Prohibitions.** Except as expressly authorized by the Agreement, You may not: (a) copy, reproduce, distribute or disclose the CA Software, provided that You may make a reasonable number of copies of the CA Software for bona fide “cold standby” disaster recovery, backup and archival purposes and may use such copy for reasonable testing and in the event of a bona fide disaster recovery event. Maintaining copies of the CA Software in a “hot standby” environment or further or additional use of the CA Software for disaster recovery, backup or archival purposes shall be subject to payment by You of the applicable fees to CA; (b) modify, unbundle, or create derivative works of the CA Software; (c) rent, sell, lease, assign, transfer or sublicense the CA Software or use the CA Software to provide hosting, service bureau, on demand or outsourcing services for the benefit of a third party; (d) remove any proprietary notices, labels, or marks on or in any copy of the CA Software or Documentation or any CA Software or materials in which the CA Software or Documentation or portions thereof are embedded; (e) use the CA Software in any manner that exceeds or is broader than the usage licensed to You from CA; or (f) reverse assemble, decompile, reverse engineer or otherwise translate the CA Software, except to the extent specifically permitted by applicable law without the possibility of contractual waiver. All rights not specifically granted hereunder are expressly reserved by CA.
3. **Licensing Model and Authorized Use Limitation.**
 - a. **Licensing Model.** The licensing model for each CA Software program is set forth in the applicable SPD for that CA Software in the section entitled “Licensing Model & Terms” or if there is no applicable SPD for that

CA Software, then set forth in the relevant Channel Notification Form or other document issued by CA. By way of illustration only, CA Software could be licensed by CA on a “per server” Licensing Model, where one copy of the CA Software is installed in a single server operating environment for a given license fee.

- b. **Authorized Use Limitation.** The specific scope or number or type of licenses that You have procured for the CA Software based on the applicable Licensing Model is set forth in the relevant Channel Notification Form. By way of illustration, You may elect to license CA Software with a “per server” Licensing Model on up to five servers in which case the Authorized Use Limitation would be five servers. Your use of the CA Software must not exceed the specified Authorized Use Limitation ordered and paid for by You. Prior to installation or use by You of the CA Software in excess of the Authorized Use Limitation, You agree to place an order for such incremental excess use in accordance with the applicable Licensing Model.
4. **Documentation.** For purposes of the Agreement, “Documentation” means (a) with respect to CA Software: only standard specifications, user documentation, and technical manuals and guides provided by CA with the CA Software (some or all of which may be in English only) and (b) with respect to Maintenance and warranty support: CA’s external policies covering the scope and nature of Maintenance and warranty support available to CA licensees can be found at <http://www/support.ca.com>. You may make a reasonable number of copies of and internally distribute Documentation solely for Your internal business purposes however You may not modify such Documentation without the prior written approval of CA. Any copies or partial copies You make must bear CA’s copyright and any other attribution notices contained in the materials copied. Such Documentation is deemed to be confidential and proprietary to CA.
5. **Limited Warranty.** CA warrants to You that: (a) it has the authority to provide You the rights and licenses mentioned herein and (b) for the duration of the warranty period set forth in the SPD for the CA Software, or, if no warranty period is set forth in the SPD then for a period of thirty (30) days following receipt of the CA Software; (i) when the CA Software is used in an operating environment stated in the Documentation as supported by CA, the CA Software will materially conform to the specifications in the Documentation for such CA Software. If it is established that CA has breached the warranty in subsection (b) above, CA’s only obligation and Your exclusive remedy shall be for CA to, at its option, (1) use reasonable efforts to cure the defect in the CA Software; (2) replace the CA Software with CA Software that materially conforms to the specifications in the Documentation; or (3) terminate the CA Software license and provide to Your CA Partner a pro rata refund, which for license and Maintenance fees paid with respect to CA Software licensed under a subscription license, shall be calculated against the remainder of the Term from the date it is established that CA has breached the foregoing warranty; or, if the CA Software was licensed under a perpetual license, a term of three years shall be used for the purposes of the license calculation. Any refund paid in accordance with the warranty provisions herein will terminate the license for the affected CA Software.
6. This warranty and the remedies offered are applicable only if: (i) the reported error or defect is reasonably reproducible by CA; (ii) You or Your CA Partner report the alleged breach with reasonable specificity in writing within thirty (30) days from its occurrence; (iii) You provide CA with reasonable assistance in the diagnosis and remedy of the applicable breach; (iv) the CA Software is within the warranty period set forth in the SPD; (v) You have installed and are using all updates, patches and fixes released by CA for the affected CA Software; (vi) You have complied in all material respects with the terms and conditions of the Agreement and have materially conformed to the Documentation for the affected CA Software and Maintenance; and (vii) the error or defect is due solely to an error or omission on the part of CA, its agents or employees.
You understand and agree that third-party hardware equipment and software, supplied by CA may be provided to You under warranty or pursuant to other terms and conditions offered by the manufacturer or licensor of such hardware or software. Where applicable, CA will include such warranties or other terms in Documentation accompanying the relevant software or other deliverable. **NO THIRD PARTY, INCLUDING AGENTS, DISTRIBUTORS, OR CA PARTNERS, IS AUTHORIZED TO MODIFY ANY OF THE ABOVE WARRANTIES OR MAKE ANY ADDITIONAL WARRANTIES ON BEHALF OF CA.**

THESE WARRANTIES ARE YOUR EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. CA DOES NOT WARRANT THAT THE CA SOFTWARE OR MAINTENANCE WILL MEET YOUR REQUIREMENTS OR THAT USE OF THE CA SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. IF PERMITTED BY APPLICABLE LAW: (A) SUCH WARRANTIES OR CONDITIONS ARE LIMITED IN DURATION TO THE WARRANTY PERIOD SPECIFIED FOR THE SUBJECT CA SOFTWARE OR MAINTENANCE; AND (B) THE REMEDY FOR BREACH OF ANY SUCH WARRANTIES OR CONDITIONS IS LIMITED TO REPAIR OR REPLACEMENT OF ANY GOODS FOUND NOT TO COMPLY WITH THEM OR THE PROVISION OF SERVICES AGAIN. NO WARRANTIES OR CONDITIONS OF ANY KIND APPLY AFTER THAT PERIOD. SOME STATES OR JURISDICTIONS DO NOT ALLOW SUCH LIMITATIONS SO TO THAT EXTENT THE FOREGOING LIMITATION MAY NOT APPLY TO YOU.

THESE WARRANTIES GIVE YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE OR JURISDICTION TO JURISDICTION.

- 7. Limitation of Liability.** 7a. Except for damages caused by fraudulent misrepresentation of CA and for death or personal injury caused by the negligence or willful default of CA, subject to subsections 7(b) and 7(c) below, CA's liability to You for direct damages, regardless of the form of action, is limited to the total amount of fees that You actually paid to Your CA Partner for the CA Software which gave rise to or was most closely connected to the cause of action.
- 7b. CA's liability for damage to tangible personal or real property caused by its negligence, shall be limited up to a maximum sum equivalent to five hundred thousand US dollars (\$500,000) per event or series of events.
- 7c. EXCEPT AS SET FORTH ABOVE, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL CA OR ITS SUPPLIERS BE LIABLE TO YOU OR ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, FOR ANY CLAIM FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOST SAVINGS, OR LOST DATA, WHETHER ARISING DIRECTLY OR INDIRECTLY EVEN IF CA OR ITS SUPPLIERS HAVE BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT THAT THE ABOVE LIABILITY LIMITATION/EXCLUSION IS FOUND TO BE INVALID UNDER APPLICABLE LAW, THEN CA'S LIABILITY FOR SUCH CLAIM SHALL BE LIMITED TO THE TOTAL AMOUNT OF THE FEES YOU HAVE ACTUALLY PAID TO YOUR CA PARTNER FOR THE CA SOFTWARE AND MAINTENANCE WHICH GAVE RISE TO OR WAS MOST CLOSELY CONNECTED TO THE CLAIM.**
- 8. Termination.**
- a. Termination by You.** You may terminate the Agreement upon thirty (30) days' prior written notice to CA if CA commits a material breach of its obligations under the Agreement, other than its obligations under the Sections entitled "Limited Warranty" and "Indemnification" and fails to either (i) cure that breach within the thirty (30) day period or (ii) make substantial progress to Your reasonable satisfaction to cure such breach and implement a plan that cures such breach within sixty (60) days of the breach notice.
- b. Termination by CA.** In addition to termination under the Sections entitled "Limited Warranty" and "Indemnification", CA may terminate the Agreement (a) upon thirty (30) days' prior written notice to You if You commit a material breach of Your obligations under this Agreement and You fail to (i) cure that breach within the thirty (30) day period; or, (ii) make substantial progress to CA's reasonable satisfaction to cure such breach and implement a plan that cures such breach within sixty (60) days of the breach notice; provided that such notice and opportunity to cure shall not be required if such breach is reasonably incapable of cure then CA may terminate the Agreement immediately in such event. Material breach may include, but is not limited to, any breach that adversely and materially affects CA's or its licensors' intellectual property rights; failure to pay fees due and payable; or breach of Your confidentiality obligations; or (b) or (b) if You become insolvent or if bankruptcy or receivership proceedings are initiated by or against You other than for the purposes of solvent reconstruction. If You breach Your obligations under the Agreement, CA shall have the right to withhold its own performance hereunder.
- c. Effect of Termination.** Any termination hereunder shall not release either party from any liability that, as of the date of termination, had already accrued or is attributable to a period prior to such termination, nor shall termination preclude either party from pursuing any rights or remedies it may have under law or in equity with respect to any breach of this Agreement. In the event of termination of the Agreement by either party of a particular CA Software product all applicable subscription licenses granted hereunder shall immediately be revoked. Further, if CA terminates the Agreement for cause as a result of Your breach of CA's or its licensors' intellectual property rights or breach of Your confidentiality obligations hereunder, any and/or all applicable perpetual licenses granted hereunder shall also be immediately be revoked. Immediately following termination for any reason, You shall certify to CA in writing that all copies and partial copies of applicable CA confidential and proprietary information in Your possession or control and any applicable CA Software for which Your license grant has been revoked, have been deleted from all computers and storage devices (including any backup or archival copies), have been returned to CA or destroyed, and are no longer in use by You, Your Affiliates, or any other party to whom You granted access to such information.
- d. Termination or Expiration of Maintenance.** If You have a license to use CA Software and a separate right to receive Maintenance, and You either terminate or fail to renew such Maintenance for any reason, You may continue to use the CA Software for the duration of the CA Software license term but will not be entitled thereafter to receive any Maintenance for the CA Software nor shall You be entitled to any refund of any license or maintenance fee.
- 9. Indemnification.** If a third party claims that CA Software, alone and not in combination with other programs or equipment, infringes that party's US registered patent or copyright in a jurisdiction where You are authorized to use the CA Software, CA will defend You against such claim at its expense and pay all costs, damages, and attorney fees that a court of competent jurisdiction finally awards or that are included in a settlement approved by CA; provided that, You promptly notify CA in writing of the claim, allow CA to control the defense and any related settlement negotiations, reasonably cooperate with CA in the preparation of such defense and negotiations, and were an active Maintenance subscriber as of the date on which the claim is filed. If such a

claim is made or appears likely to be made, CA may take action to enable You to continue to use the CA Software, modify it so that it is non-infringing, or replace it with non-infringing CA Software that is at least functionally equivalent. If CA determines that none of these alternatives is reasonably feasible, CA may terminate Your license to use the CA Software and You agree to return the CA Software to CA upon its written request. CA will then arrange a pro rata refund to Your CA Partner of the fees already paid for the CA Software, which shall be calculated against the remainder of the Term from the date it is established that CA is notified in writing of the third party claim or, if the CA Software was licensed under a perpetual license, a term of three years shall be used for the purposes of the license. This is CA's sole and exclusive obligation to You and Your sole remedy regarding any claim of intellectual property infringement. CA shall have no liability under this Section if: (i) the allegation of infringement arises from or relates to the unauthorized modification of the CA Software; (ii) the CA Software is not being used in accordance with the terms and conditions of the Agreement or in conformance with the Documentation, (iii) CA has announced that it no longer supports such CA Software, (iv) the alleged infringement could have been avoided by the use of an update or patch released by CA, or (v) the alleged infringement is a result of use of the CA Software with any non-CA supplied third party product.

10. Ownership and Proprietary Information. Title to, ownership of, and all rights in the intellectual property, including but not limited to patents, copyrights, trademarks, and trade secrets in the CA Software and Documentation, any derivative works thereof, and any goodwill accruing from the use of such CA Software and Documentation, belong exclusively to and shall remain with CA and/or its licensors. You shall not make available or disclose such intellectual property to any third parties except as expressly permitted by this Agreement, and shall take appropriate action, including by instruction or agreement with Your employees who are permitted access to such information, to satisfy Your obligations hereunder.

11. Confidentiality. "Confidential Information" means all information that is either marked as confidential or that a reasonable person would deem to be confidential based on the circumstances (including the source of the information) and industry practices. By way of illustration, CA Confidential Information includes, but is not limited to, CA Software, Documentation, technical data and information, methodologies and related documents, training materials, product plans and roadmaps, market strategies, business models, pricing and personnel data. You and CA agree to: (a) maintain in confidence the disclosing party's Confidential Information to the same extent that the receiving party maintains its own proprietary information of similar kind and value; (b) not disclose the other party's Confidential Information to any third party other than the receiving party's authorized personnel who have a need to know such Confidential Information in connection with this Agreement, except as expressly permitted herein or otherwise with the disclosing party's prior written approval; and (c) not use such Confidential Information for any purpose except those permitted by this Agreement. Notwithstanding the foregoing, (a) each party may provide or permit access to the disclosing party's Confidential Information to the receiving party's attorneys, independent accountants and financial advisors for the sole purpose of enabling such attorneys, independent accountants and financial advisors to provide advice to the receiving party, and (b) CA may provide or permit access to Your Confidential Information to its contractors, resellers and distributors who have a need to know such Confidential Information to assist CA with the activities contemplated or required of it by this Agreement; provided that in each such case the third party to whom Confidential Information is being disclosed is subject to obligations of confidentiality and non-use with respect to such Confidential Information substantially similar to the obligations of confidentiality and non-use set forth in this Section. Neither party makes any representations or warranties as to the accuracy or completeness of the Confidential Information disclosed.

The obligations set forth in this Section shall not apply with respect to any portion of such Confidential Information which: (a) is publicly disclosed by the disclosing party, either before or after it becomes known to the receiving party; (b) was known to the receiving party, without any obligation to keep it confidential, prior to when it was received from the disclosing party; (c) is subsequently disclosed to the receiving party by a third party that is lawfully in possession thereof and without obligation to keep it confidential; (d) has been published by a third party or otherwise enters the public domain through no fault of the receiving party or in breach of this Agreement; or (e) has been independently developed or acquired by the receiving party. Moreover, the receiving Party shall have the right to disclose any Confidential Information provided hereunder if, in the reasonable opinion of the receiving party's legal counsel, such disclosure is necessary to comply with a court order or applicable law or regulation; provided that where reasonably possible, the receiving party shall notify the disclosing party sufficiently prior to making such disclosure so as to allow the disclosing party adequate time to take whatever action the disclosing party may deem to be appropriate to protect the confidentiality of the Confidential Information. For Confidential Information pertaining to CA Software and CA Intellectual Property, the obligations set forth above are indefinite. For all other Confidential Information, such obligations shall continue for five (5) years from the date of initial disclosure.

12. General.

- a. Nothing in this Agreement affects any statutory rights that cannot be waived or limited by contract.
- b. In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

- c. You agree that CA Software is subject to export controls of the United States of America and import controls of any other country in which the CA Software may be used. You agree to export, re-export or import CA Software only in compliance with such laws and controls.
- d. You agree to allow CA and its affiliates to store and use Your contact information, including names, phone numbers, and e-mail addresses, anywhere they do business. Such information will be processed and used in connection with our business relationship, and may be provided to CA's affiliates, and to contractors, business partners, and assignees of CA and of its affiliates for uses consistent with their collective business activities, including communicating with You (for example, for processing orders, for promotions, and for market research). You represent that (i) You are duly authorized to provide personal data to CA and You do so lawfully in compliance with relevant legislation, (ii) CA and any entity within the CA group of companies (each a "CA Entity") or its subcontractors can process such data and (iii) CA may disclose such data to any CA Entity and its subcontractors for the purpose of satisfying its obligations to You and for marketing other CA products or services to You and may transfer such data to countries outside of the country of origin. CA, Inc is Safe Harbour certified and the CA Entities have committed to comply with relevant data protection/privacy legislation.
- e. Each party shall be excused from performance of its obligations under this Agreement (except the obligations to make payment when due) to the extent that it is prevented as a result of delays caused by an act of God, earthquake, fire, flood, hurricane, severe weather or other natural disaster, war, civil disturbance, terrorist attacks, riots, strikes, lockouts, court order, internet or communication problems, power failures, or unauthorized access or theft.
- f. This Agreement will not create any right or cause of action for any third party, nor will CA be responsible for any third party claims against You, except as permitted by the Limitation of Liability and Indemnity sections above.
- g. Any conflict or inconsistency among or between the terms and conditions of the documents comprising the Agreement shall be resolved according to the following descending order of precedence, from the document with the greatest control to the least: (1) these Terms ; (2) the SPD for the relevant CA Software offering (which shall include the CA Support Policy and Terms); (3) the Channel Notification Form; then (4) the Documentation for the relevant CA Software.
- h. The laws of England & Wales shall govern the construction and enforceability of the Agreement. The parties agree that any action arising under or relating to the Agreement or the CA Software shall lie within the exclusive jurisdiction of the English courts. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.
- i. The Agreement and the documents referred to herein represent the entire agreement between CA and You with respect to this subject matter, and all other agreements, proposals, purchase order, representations and other understandings concerning this subject matter, whether oral or written between the parties are superseded in their entirety by this Agreement. No alteration or modification of this Agreement will be valid unless made in writing and signed by the parties. In the event a purchase order is used, any terms thereon shall not apply.
- j. You may not assign the Agreement, the use of any CA Software or Your rights and obligations under the Agreement without the prior written consent of CA. The Agreement shall be binding on the parties and all of their respective successors and assigns.
- k. You agree to furnish CA with such information and access to Your facilities and Your Affiliates' facilities and records as CA may reasonably request in order to verify Your compliance with the Agreement. Such examination right shall survive the termination of this Agreement for a period of three (3) years.
- l. The CA Software shall be delivered either by electronic delivery ("ESD") or in tangible media as CA deems appropriate. In the event of ESD, no tangible personal property will be delivered. The obligation to deliver the CA Software to You shall be complete upon transmission to You by ESD. At that time and place, all risk of loss of the copy of the CA Software shall pass to You. In the event of delivery on tangible media, the CA Software shall be shipped "Carriage Paid To" (CPT), as defined in INCOTERMS 2010, from CA's shipping location. CA agrees to pay shipment and insurance charges and, in addition, to be responsible for all customs, duties and clearance. Title (to the extent that it passes) and risk of loss to all CA Software passes to You from the point of handing over to the carrier at CA's shipping location.
- m. Upon CA's request, You agree to issue one press release ("Release") regarding Your acquisition and/or use of CA Software. The Release may be disseminated in regions to be determined by CA and may be posted on CA's public and intranet websites. You shall have final editorial control of the content of any Release.
- n. At CA's request, You agree to serve as a reference with respect to CA's Software provided for herein by meeting or conferring with up to four (4) CA clients during each year of the Term, provided that CA gives You reasonable prior notice of each reference request and that each meeting or conference is scheduled during Your normal business hours.