

## Specific Program Document (“License SPD”)

CA Europe s.a.r.l. (“CA”) licenses to Customer the CA software program(s), and any fixes, patches, updates, upgrades, or other software provided to Customer as part of Maintenance) (“CA Software”) listed below under the following terms and conditions. By using the CA Software, Customer confirms that Customer has read and agreed to these terms.

**Program Name: CA Enterprise Log Manager**

### **Specified Operating Environment**

The CA Software's specifications and specified operating environment information may be found in Documentation accompanying the CA Software, if available (e.g., a user manual, user guide, or readme.txt or notice.txt file).

### **Licensing Model**

- A. CA Software means the CA Enterprise Log Manager software described herein in object code form and as set forth in the Order Form.
- B. “Agent” means a single installation of the agent software on a specific operating system instance which can be identified as a unique host identification on a hardware server. A hardware server may have multiple operating system instances installed on it (through partitioning or virtualization). Each instance of the operating system on a partitioned/virtualized server must license an agent if required for job scheduling purposes.
- C. “Node” means, in a communications system, a network junction or connection point. Any system or device connected to a network is also called a node or cluster.
- D. “Server” means a single physical or virtual computer which processes data using one or more central processing units, and which is owned, leased or otherwise controlled by Customer. A Server typically manages access to a centralized resource or service in a network and may be used to provide services (such as access to files or shared peripherals or the routing of e-mail) to other computers in the network.

The CA Software is licensed by the number of Servers, Nodes and Agents set forth in the Order Form (the “Authorized Use Limitation”).

### **Licensing terms**

**License Grant.** The license granted to Customer is a limited, non-exclusive, non-transferable and territory wide license. “Territory” is specified in the Order Form, in the section entitled “Territory”. Customer’s use of the license shall extend to use by Customer and Customer’s Authorized End Users. “Authorized End Users” means Customer and Customer 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 Customer’s responsibility and liability. Customer may use the CA Software for the operation of Customer Affiliate’s internal data processing where an “Affiliate” shall mean any entity for which Customer holds greater than a fifty percent (50%) interest by force of law or contract, but only for so long as Customer maintains that interest. The type of license Customer receives is designated in the Order Form for the CA Software and may include:

**Perpetual License:** A perpetual license to use the CA Software.

**Subscription License:** A license to use the CA Software for a specific length of time (the “Term”) as set forth in the applicable Order Form. When the license expires at the end of the Term, Customer, all Affiliates and Authorized End Users must stop using the CA Software if Customer has not obtained a new license. Transfers outside of the Territory shall require prior written consent of CA and payment of additional fees.

**Use Prohibitions.** Except as expressly authorized by the agreement, Customer may not: (a) copy, reproduce, distribute or disclose the CA Software, provided that Customer may make a reasonable number of copies of the

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**Authorized Use Limitation.** The specific scope or number or type of licenses that Customer has purchased for the CA Software is set forth in the relevant Order Form. Customer’s use of the CA Software must not exceed the specified Authorized Use Limitation. Prior to installation or use by Customer of the CA Software in excess of the Authorized Use Limitation, Customer agrees to pay the CA entity through which Customer obtained the license for such incremental excess use.

#### **General Terms.**

**Export Control.** Customer agrees 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. Customer agrees to export, re-export or import CA Software only in compliance with such laws and controls.

**Applicable Law.** Both Customer and CA consent to the application of the same laws as are applicable to the agreement through which Customer purchased the license of the CA Software to govern, interpret and enforce this License Specific Program Document without regard to conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this License SPD.

#### **Limitation of Liability.**

- a. CA’s liability shall, regardless of the reason for the liability, be unlimited in cases of death or bodily injury or injury to health and damages caused by gross negligence or willful default of CA or the grossly negligent or willful default of CA’s legal representatives or persons whom CA occupies with the performance of its contractual obligations and in cases of liability under the Product Liability Act.
- b. In case of slight negligence CA shall, regardless of the reason for the liability, only be liable, if and to the extent of a violation of an obligation which is essential for the execution of this Agreement (“Kardinalpflicht”). In this case, CA’s liability to Customer will be limited to damages which have been foreseeable and which can typically arise in connection with this Agreement.  
Further to the above CA’s liability to the Customer for indirect, special and consequential damages (including, without limitation, loss of profits, loss of business, loss of opportunity or loss of goodwill) shall be limited to damages which have been foreseeable and which can typically arise in connection with this agreement.
- c. It is the parties’ understanding that the foreseeable damages that can typically arise in connection with the licenses granted in this agreement in the meaning of section b above will not exceed the total amount of fees to be paid by the Customer in accordance with the Order Form for the CA Software or Maintenance that caused the damage or gave rise to the cause of action or - should such fees not be determined - the total amount of the fees paid by Customer in accordance with the applicable order form.
- d. The liability for loss of data shall be limited to the typical recovery efforts in the case of regular and adequate data back-up.
- e. The parties agree the limitations and exclusions herein are fair and reasonable.

#### **Limited Warranty.**

- a. CA warrants to Customer that:
  - i. it has the authority to provide Customer the rights and licenses mentioned herein in the Territory and

- ii. that the then prevailing generally available version of the CA Software is free of defects.
- b. If it is established that CA has breached either of the warranties in subsection 5 a.i. and a.ii. above, CA's only obligation and Customer's remedy shall be for CA to, at its option, (1) use reasonable efforts to cure the defect in the CA Software; or (2) replace the defective CA Software with CA Software that materially conforms to the specifications in the Documentation.
- c. If the defect cannot be cured within a reasonable period of time or if the rectification of the defect or replacement has finally failed, Customer shall have
  - (i) in case of a subscription license the right to reasonably reduce the fees agreed and/or terminate immediately for cause, if the legal or statutory requirements are met;
  - (ii) in case of a perpetual license, at its option, (1) rescind from the Agreement or reduce the fees agreed in the applicable order form and (2) claim damages or to claim reimbursement of futile expenditures. The right to claim damages or futile expenditures shall be subject to the limitations of liability set forth above.
- d. In case of a perpetual license the warranty claims stated herein shall become time-barred within 1 year after delivery of the CA Software.
- e. This warranty and the remedies offered are applicable only if: (i) the reported error or defect is reasonably reproducible by CA; (ii) Customer has installed and is using all updates, patches and fixes released by CA for the affected CA Software; (iii) the CA Software is being used in accordance with the CA specifications, guidelines and Documentation or Customer can prove that the defect is not attributable to the non-conformance with these pre-conditions, and (iv) the error or defect is not attributable in whole or in part to any non-CA product(s) or service(s).
- f. Customer understands and agrees that third-party hardware equipment and software, supplied by CA may be provided to Customer 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.
- g. Unless specifically identified as such in writing, CA does not give any guarantees with respect to the CA Software, including but not limited to the quality or durability.

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If Customer claims under the present warranty section, Customer is not entitled or eligible to seek for the same warranty under any another warranty provision.

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**Termination.** CA may terminate this License SPD as well as revoke the license hereby granted in the event of a breach by Customer and/or Customer's Authorized End Users of this License SPD.



### **Third Party Notices and Terms**

The following list identifies various third-party software components used with the CA Software that you are licensing. Third party notices required by the licensors of such components are set forth in the Third Party Notices and Terms document located <https://support.ca.com/prodinfo/tptterms>.

**Adaptive Communication Environment (ACE) 5.6**  
**Boost 1.35.0**  
**SourceForge**  
**SQLite**  
**SNMP4J'**