

CA EUROPE sarl (“CA”)

MSP LICENSE TERMS (“Terms”)

These Terms are applicable to Service Providers who purchase CA Software obtained from a CA affiliate for the purpose of providing a managed service offerings to its end user customers (as defined below). By using the CA Software, the Service Provider (“You”) 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 maintenance and support (“Maintenance”) is subject to Your compliance with these Terms.

- 1. License Grant.** Subject to Your compliance with the Agreement, CA grants to You a limited, non-exclusive, non-transferable, non-sublicenseable right 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 of providing a managed service offering to Your customers. Such use shall extend to use by You and Your employees, contractors or agents that accesses the CA Software on Your behalf (but excluding any further use by other outsourcers, facilities management providers or application service providers). Use of the CA Software by such shall at all times remain Your responsibility and liability. The type of license purchased by You is either a subscription license ie a license to use the CA Software for a specific length of time so that when the license expires, You must stop all use of the CA Software if You have not obtained a new license; or a perpetual license where your right to use the license is perpetual and can only be terminated as stated below under Section 3. The licensing model for each CA Software program is set forth in the applicable Specific Program Documentation (“SPD”) located at <http://www.ca.com/licenseagreement> for that CA Software or if there is no applicable SPD for that CA Software, then set forth in the relevant document issued by CA. The License SPD is incorporated by reference herein. 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. This clause 1 overrides the license grant provision in the License SPD.
- 2. Documentation.** For purposes of these Terms, “Documentation” means only standard specifications, user documentation, and technical manuals and guides provided with the CA Software. 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.
- 3. Termination.**
 - a. Termination by You.** You may terminate this license upon thirty (30) days’ prior written notice to CA if CA commits a material breach of its obligations, 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.** CA may terminate the license upon thirty (30) days’ prior written notice to You if You commit a material breach of Your obligations under these Terms 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 license 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. If You breach Your obligations under these Terms, 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 these Terms. In the event of termination by either party of a particular CA Software product; (i) all applicable subscription licenses granted hereunder shall 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 or any other party to whom You granted access to such information.
- 4. 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 these Terms, 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 these Terms. 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 these Terms; 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.

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 these Terms; 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.

5. General.

- a. Nothing in these Terms affects any statutory rights of consumers that cannot be waived or limited by contract.
- b. In the event that any provision of these Terms 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. Both You and CA consent to the application of the same laws as are applicable to the contract through which you purchased the license of the CA Software to govern, interpret and enforce the Agreement without regard to conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.
- f. These Terms and the License SPD 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 these Terms. No alteration or modification of these Terms or the License SPD 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.
- g. You may not assign the use of any CA Software or Your rights and obligations under these Terms without the prior written consent of CA. These Terms shall be binding on the parties and all of their respective successors and assigns.
- h. 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 these Terms. Such examination right shall survive the termination of these Terms for a period of three (3) years.
- i. In the event of any conflict between these Terms and the SPD, these Terms shall control.