

## Specific Program Document (“License SPD”)

1. CA Europe s.a.r.l. (“CA”) licenses to Customer the CA software program(s) listed below under the following terms and conditions. By using the CA Software, Customer confirm that Customer have read and agreed to these terms. “Customer” means the legal entity being granted the license to the CA Software under this License SPD, also referred to as “Client”, “Customer” or “Licensee”. “CA Software” means the program(s) licensed under this License SPD, and any fixes, patches, updates, upgrades, or other software provided to Customer as part of Maintenance. “Maintenance” means the maintenance and support services provided to Customer by the entity to from which Customer has purchased the CA Software.

2. **Program Name: CA Wily Customer Experience Manager (CA Wily CEM)**

3. **Specified Operating Environment**

The CA Software's specifications and specified operating environment information may be found in the Documentation accompanying the CA Software, if available (e.g., a user manual, user guide, or readme.txt or notice.txt file). “Documentation” means (a) with respect to CA Software: only standard specifications, user documentation, and technical manuals and guides provided 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 customers can be found at <http://www.support.ca.com>.

4. **Licensing Model**

The CA Software is licensed by (1) the number of CPUs when used as a distributed product or by (2)(a) millions of service units (“MSUs”) and number of System z Application Assist Processors (“zAAPs”) and number of System z Integrated Information Processors (“zIIPs”) or (b) number of integrated facilities for Linux (“IFLs”), when used in the mainframe environment, as set forth on the Order Form (the “Authorized Use Limitation”). “CPU” means a central processing unit which is the specialized integrated circuit that executes binary programs and performs most logical functions or calculations. A dual-core central processing unit is considered a single CPU. Note that because of the use of multi-core CPUs and virtual server environments, the calculation of CPUs for licensing purposes described below will not always equate to the number of physical CPUs in the environment. A virtual server environment is created where virtual machine technology (which applies to both client and server hardware) is used to enable multiple instances of an operating system(s) to run on a single computer simultaneously (“Virtual Machine Technology”).

When the Authorized Use Limitation is “CPU” or “Processor”, the calculation with respect to the number of CPUs on an individual server is determined as follows:

1. For non-virtual server environments, for any server with applications monitored by the CA Software with single CPUs (including, for the avoidance of doubt, dual-core CPUs), count the number of CPUs. For any server with applications monitored by the CA Software with greater than dual-core CPUs, count all cores of the CPUs. Divide the number of cores by two (2) and round up to the next whole number.

2. For virtual server environments, for any server with single CPUs (including, for the avoidance of doubt, dual-core CPUs), count the number of CPUs. For any server with greater than dual-core CPUs, count all cores of the CPUs. Divide the number of cores by two (2) and round up to the next whole number. Determine the maximum percentage of the server CPU capacity that is allocated by the Virtual Machine Technology to any operating system instance containing application(s) monitored by the CA Software, and multiply this percentage by the number of CPUs. Multiply the resulting number by one and a half (1.5X) and round up to the next whole number.

3. For mixed server environments, for each server perform the calculations for CPUs as set forth above in subparagraphs (1) and (2) and add these amounts together to determine the aggregate number of CPUs. When the Authorized Use Limitation is “MSUs”, “zAAPs”, or “zIIPs” (i) the MSUs shall be calculated by totaling the MSU capacity for all logical partitions, or LPARs, that run an application monitored by the CA Software, (ii) the zAAPs shall be calculated by totaling the number of zAAP engines attached to such LPARs, and (iii) the zIIPs shall be calculated by totaling the number of zIIP engines attached to such LPARs. An “LPAR” means the division of a computer’s processors, memory, and storage into multiple sets of resources so that each set of resources is operated independently with its own physical or virtual operating system instance and applications.

When the Authorized Use Limitation is “IFLs”, the IFLs shall be calculated by totaling the number of IFL engines that run an application monitored by the CA Software.

“Wily Hardware” means the hardware server platform that is sold to you on your Order Form for purposes of operating the CA Software. Once you have paid the fees applicable to such Wily Hardware, title to the Wily Hardware shall pass to you. Risk of loss passes to you upon shipment of the Wily Hardware. A third party warranty services plan is included with your Wily Hardware purchase. For further information on this third party warranty services plan, please consult your local CA account representative. Any warranty coverage on the Wily Hardware is provided by the third party warranty provider and not CA. Customer must acquire at least one license (per CPU, MSU or IFL) in order to purchase a CA Wily Transaction Impact Monitor (“TIM”) or CA Wily Transaction Event & Statistics Server (“TESS”). Both a TIM and a TESS are required for any production installation. CA Wily Solutions for Lab Environments (“Wily LAB”) is a single appliance that contains TIM and TESS capabilities but is not supported for a production environment. The Wily LAB system includes one CPU license for CA Software at no additional charge.

## **5. Licensing terms**

**5.1 License grant.** The license granted to Customer is a limited, non-exclusive, non-transferable and territory wide license. The “Territory” is specified in the applicable 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’s 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’s Affiliate’s internal data processing where an “Affiliate” shall mean any entity for which Customer holds greater than a fifty percent (50%) interest or, by force of law or contract but only for so long as Customer maintains that interest. Customer may transfer such CA Software to new hardware, site or location within the Territory upon prior written notice to CA and such transfer might be subject to the payment of additional fees to the local CA entity to which Customer has purchased the CA Software.

**5.2 Type of license.** 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.

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**6.1 Export Rules.** The Customer agrees that the 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. The Customer agrees to export, re-export or import CA Software only in compliance with such laws and controls

**6.2 Applicable Law.** Both the Customer and CA consent to the application of the same laws as are applicable to the contract through which the Customer purchased the license of the CA Software to govern, interpret and enforce this License 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.

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

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6.3.2. CA's liability for damage to tangible personal or real property due to the negligence of CA shall be limited in aggregate to the sum of US\$500,000 per event or series of related events.

6.3.3. THE REMEDIES PROVIDED IN THE AGREEMENT ARE THE EXCLUSIVE REMEDIES OF THE PARTIES. IN NO EVENT SHALL CA BE LIABLE TO THE CUSTOMER OR ANY OTHER PARTY, WHETHER IN CONTRACT OR TORT, OR OTHERWISE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL, CONSEQUENTIAL OR UNFORESEEABLE LOSS, DAMAGE OR EXPENSE, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF OPPORTUNITY, LOSS OR CORRUPTION OF DATA, HOWEVER ARISING, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES BEING INCURRED.

6.3.4. The parties agree the limitations and exclusions herein are fair and reasonable in all the circumstances of the Agreement.

### **6.4 Warranty.**

6.4.1 CA warrants to Customer that: (a) it has the authority to grant Customer the rights and licenses mentioned herein and (b) for the period of 30 days after delivery of the CA Software and subject to the CA Software being 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 Customer's 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 arrange a pro rata refund of the fees that Customer has paid. Any refund of fees paid in accordance with the warranty provisions herein will terminate the license of the affected CA Software.

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material respects with the terms and conditions of this License SPD and has materially complied with the Documentation for the affected CA Software; and (vi) the error or defect is due solely to an error or omission on the part of CA, its agents, affiliates or employees.

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