

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 confirms that Customer has 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 from which Customer has purchased the CA Software.

2. **Program Name: Mainframe CPU CA Software only**

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 the number and model of CPU specified on the order form (the “Authorized Use Limitation”). “CPU” shall mean the central processing unit(s) capable of running the CA Software. Customer may only use CPUs specified when purchasing the licenses herein and upon which the CA Software is installed and runs (“Designated CPUs”). Customer may change the Designated CPU on providing written notice to CA provided that such replacement CPU is of the same or lower CPU tier/power rating to the Designated CPU (save that Customer may require an authorization key from CA in order to commence use of such CPU). Should Customer wish to add to the number of Designated CPUs or upgrade the then current Designated CPU(s) to a CPU with greater tier/power rating, Customer must provide CA with prior written notice of such additional CPU and/or upgrade to the Designated CPU(s) and must execute an order form to effect such addition/change and purchase the applicable license. Customer may transfer the CA Software to new hardware, site or location within the Territory specified when purchasing the license upon prior written notice to CA. Transfers outside of the specified Territory shall require prior written consent of CA and purchase of additional Authorized Use Limitation.

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



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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.

Subscription License: A license to use the CA Software for a specific length of time as set forth in the applicable order form. When the license expires at the end of the applicable term, Customer, all Affiliates and Authorized End Users must stop using the CA Software if Customer has not obtained a new license.

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

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

6.3.1. CA’s liability shall, regardless of the reason for the liability, be unlimited in cases of death or bodily injury or injury of 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.

6.3.2. 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

6.3.3. It is the parties' understanding that the foreseeable damages that can typically arise in connection with the licenses made available in this Agreement in the meaning of section 6.3.2 above will not exceed the total amount of fees paid by the Customer solely for the specific CA Software that caused the damage or gave rise to the cause of action, with the exclusion of any Maintenance fees.

6.3.4. The liability for loss of data shall be limited to the typical recovery efforts in the case of regular and adequate data back-up.

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

6.4. Limited Warranty. CA warrants to Customer that it has the authority to grant to Customer the rights and licenses mentioned herein in the Territory and that the then prevailing generally available version of the CA Software is free of defects.

6.4.1. If it is established that CA has breached either of the warranties 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.

6.4.2. 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 the right

(i) in case of a subscription license to have the fees agreed reasonably reduced 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) to rescind from the Agreement or have the fees agreed in the applicable order form reduced 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 in section 6.3.

6.4.3. In case of a perpetual license the warranty claims stated herein shall become time-barred within 1 year after delivery of the CA Software.

6.4.4. This warranty and the remedies offered are applicable only if: (i) the reported error or defect is reasonably reproducible by CA; (ii) Customer provides CA with reasonable assistance in the diagnosis and remedy of the applicable breach; (iii) Customer has installed and is using all updates, patches and fixes made available by CA or its affiliates for the affected CA Software; (iv) Customer has complied in all material respects with the terms and conditions of the Agreement and the relevant License SPD (including but not limited to payment of all fees) and has materially conformed to the Documentation for the affected CA Software or Maintenance; and (v) the error or defect is due solely to an error or omission on the part of CA, its agents, affiliates or employees.

6.4.5. 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.

6.4.6. If Customer claims under this warranty section, Customer is not entitled or eligible to seek for the same warranty remedies from any other party under any another warranty provision.

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