

## CA Master Agreement (“MA”)

This MA is entered into by the CA entity (“CA”) and customer entity (“You”) identified on the relevant Order Form and shall be effective from the date specified on the Order Form.

Your right to use CA Software (“CA Software”) and obtain maintenance and support (“Maintenance”) and CA professional services from CA (“CA Services”) is subject to Your compliance with the terms and conditions of this MA, the applicable Order Form identifying the specific CA Software, Maintenance and/or CA Services, and the Specific Program Document (“SPD”) for the CA Software, Maintenance and/or CA Service offering, which is located at <http://www.ca.com/licenseagreement> (collectively, these documents are referred to as the “Agreement”). The terms and conditions of the SPD applicable to You for the CA Software, Maintenance or CA Service licensed and/or purchased by You will be those that are in effect at the time that You acquire the CA Software, Maintenance or CA Services and shall remain binding upon both You and CA for that CA Software, Maintenance or CA Services absent mutual written agreement to the contrary.

1. **License Grant.** Subject to Your compliance with the terms and conditions of the Agreement, including but not limited to payment of applicable fees for CA Software, Maintenance and CA Services obtained hereunder, CA grants You in the country or region specified in the Order Form in the Section entitled “Territory” a limited, non-exclusive, non-transferable license to use the CA Software 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 Licensed Programs 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 Order 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 9(b) 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 Order Form. When the license expires at the end of the Term, You, all Affiliates and 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 as specified on the Order Form. 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 uses licensed to You from CA or an authorized CA reseller or distributor; 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” or if there is no applicable SPD for that CA Software, then set forth in the relevant Order Form. By way of illustration, 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. Other examples of Licensing Models include, but are not limited to, licenses based on and calculated using millions of instructions per second (MIPS) or millions of service units (MSUs), the total number of end-users, the number of sites in which the CA Software is installed or used, and enterprise-wide use.

- b. **Authorized Use Limitation.** The specific scope or number or type of licenses that You have purchased for the CA Software based on the applicable Licensing Model is set forth in the relevant Order 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 and the fee due might be five times the "per server" fee assuming there is a flat "per server" fee [note: there may be volume discounts]. Your use of the CA Software must not exceed the specified Authorized Use Limitation. Prior to installation or use by You of the CA Software in excess of the Authorized Use Limitation, You agree to pay CA for such incremental excess use in accordance with the applicable Licensing Model.
4. **Payment of Fees.** You agree to pay the fees for CA Software, Maintenance and/or CA Services specified on the Order Form or such other ordering document as otherwise agreed between You and CA. Payment obligations are non-cancellable and fees paid are non-refundable except as expressly provided herein. Unless otherwise provided in the Order Form, all payments are due within thirty (30) days from date of invoice except for amounts that are subject to a bona fide dispute. In order to place an invoiced amount, otherwise payable, into bona fide dispute, You must notify CA, in writing, prior to the original due date for payment of such invoiced amount and submit a written explanation, specifying, in reasonable detail, the basis of the dispute as to the validity of such invoiced amount. You agree to pay any applicable VAT, sales tax, import and custom duties and any other applicable taxes (collectively "Taxes") in addition to the fees. In the event a payment due date falls on a weekend or a holiday the payment shall be payable by You to CA on the business day immediately prior to such date. CA may charge interest of one per cent (1%) per month compounded for the entire overdue period or the maximum amount allowed by law if undisputed fees, or fees determined to be payable by any court or otherwise agreed are not paid by the due date. If Your account is thirty (30) days or more overdue (except with respect to amounts subject to a bona fide dispute), in addition to any of its other rights or remedies, CA reserves the right to suspend Maintenance and/or any CA Services to You, without liability, until such amounts are paid in full.
5. **Maintenance and Support.** If included in Your license from CA, or if You elect to purchase Maintenance for CA Software in addition to the warranty support, if any, provided with such CA Software, the Order Form identifies the type of Maintenance purchased for each CA Software program, and the duration of such Maintenance (the "Maintenance Term") and the applicable fees for Maintenance. CA will provide the level of support as detailed for each such category in the specific Maintenance SPD, which can be found at <http://www.support.ca.com>. Warranty support and the term thereof provided by CA, if any, is described in Section 7 below and any additional or different terms and conditions governing warranty support are set forth in the SPD for each CA Software program. To the extent that warranty support is provided by CA, it is included in the license fee for CA Software and thus is not separately designated as Maintenance on the Order Form.
6. **Documentation.** For purposes of this Agreement, "Documentation" means (a) with respect to CA Software: only standard specifications, user documentation, and technical manuals and guides provided by CA with its 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.
7. **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 Services, or, if no warranty period is set forth in the SPD and the CA Software or Services are not provided under terms expressly identifying the CA Software or Services as provided on an "as is" basis, a period of thirty (30) days following the date on the Order Form; (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; and (ii) CA Services and Maintenance shall be performed in accordance with industry standards using reasonable care and skill, and provided in accordance with CA's then-prevailing policies. If it is established that CA has breached either of the warranties 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 or re-perform the nonconforming CA Services; (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 a pro rata refund of the fees that You have already paid, 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 warranties 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; or for fees separately identified and paid for CA Services, the refund shall be calculated based on the deliverables provided and CA Services performed prior to the occurrence of the nonconforming CA Services under the applicable ordering document. Any refund of fees paid in accordance with the warranty provisions herein will terminate the license for the affected CA Software or, in the case of Services, performance by CA of the applicable Services.

This warranty and the remedies offered are applicable only if: (i) the reported error or defect is reasonably reproducible by CA; (ii) You 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 or CA Services are 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 (including but not limited to payment of all fees) and have materially conformed to the Documentation for the affected CA Software, Maintenance or CA Services; 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 AUTHORIZED CA RESELLERS, 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 OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. CA DOES NOT WARRANT THAT THE CA SOFTWARE, MAINTENANCE OR CA SERVICES WILL MEET YOUR REQUIREMENTS OR THAT USE OF THE CA SOFTWARE OR CA SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. IF PERMITTED BY APPLICABLE LAW: (A) SUCH WARRANTIES ARE LIMITED IN DURATION TO THE WARRANTY PERIOD SPECIFIED FOR THE SUBJECT CA SOFTWARE, MAINTENANCE OR CA SERVICE; AND (B) THE REMEDY FOR BREACH OF ANY SUCH WARRANTIES IS LIMITED TO REPAIR OR REPLACEMENT OF ANY GOODS FOUND NOT TO COMPLY WITH THEM OR THE PROVISION OF SERVICES AGAIN. NO WARRANTIES 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.**

8. **Limitation of Liability.** Regardless of the basis which You may be entitled to claim damages from CA or its suppliers (including but not limited to breach of contract, negligence, misrepresentation, or other contract or tort claim), You agree that CA is liable for no more than 1) damages for bodily injury (including death) and damage to real property and tangible personal property in the amount of five hundred thousand dollars (\$500,000) and 2) the amount of any other actual direct damages up to the amount that You actually paid for the CA Software, Maintenance and/or CA Services that are the subject of the claim. This limitation of liability also applies to CA's employees, contractors, resellers and suppliers. It is the maximum amount which they, and CA, are collectively responsible.

**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, INCLUDING BUT NOT LIMITED TO ANY CLAIM FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOST SAVINGS, OR LOST DATA, 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 IS FOUND TO BE INVALID UNDER APPLICABLE LAW, THEN CA AND ITS SUPPLIER'S LIABILITY FOR SUCH CLAIM SHALL BE LIMITED TO THE AMOUNT OF**

**THE FEES YOU HAVE ACTUALLY PAID FOR THE CA SOFTWARE, MAINTENANCE AND/OR SERVICES GIVING RISE TO THE CLAIM.**

**9. Termination.**

**a. Termination by You.** You may terminate this Agreement upon thirty (30) days' prior written notice to CA if CA commits a material breach of its obligations under this 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 this Agreement 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. 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, Maintenance or CA Service or all such products and services (i) all applicable amounts due or to become due hereunder will immediately be due and payable to CA (subject only to any setoff to which You may be entitled with respect to a pro rata refund by CA pursuant to the Section entitled "Limited Warranty" or the Section entitled "Indemnification"); (ii) all applicable subscription licenses granted hereunder shall immediately be revoked, and (iii) You shall no longer be entitled to receive any applicable Maintenance hereunder. Further, if CA terminates the Agreement for cause as a result of Your breach of CA's or its licensors' intellectual property rights, breach of Your confidentiality obligations hereunder, or failure to pay the license fees for the applicable license, 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. For as long as this Agreement remains in effect, You may subsequently reinstate Maintenance for that CA Software, if CA still makes such Maintenance generally available, by paying to CA a fee equal to one hundred and fifty percent (150%) of CA's then-prevailing Maintenance fee for each year for which Maintenance fee was not paid, so that the CA Software can be updated to include the bug fixes, patches and updates made during the time when You were not an active Maintenance subscriber.

- 10. Indemnification.** If a third party claims that CA Software or CA Services, alone and not in combination with other programs or equipment, infringes that party's US registered patent or copyright rights or similar laws in a jurisdiction where You are authorized to use the CA Software or CA Services. 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 give You a pro rata refund of the fees You have 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.

- 11. 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, Services and Documentation, any derivative works thereof, and any goodwill accruing from the use of such CA Software, Services and Documentation, belong exclusively to and shall remain with CA, Inc. 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.

- 12. 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 12.

The obligations set forth in this Section 12 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.

- 13. General.**
- a. Nothing in this Agreement affects any statutory rights of consumers 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. Neither You nor CA will bring a legal action under this Agreement more than two years after the cause of action arose unless otherwise provided by local law without the possibility of contractual waiver or limitation.

f. Each of us 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.

g. All CA Software is delivered either FOB shipping point or by electronic delivery. In the event of electronic delivery, no tangible personal property will be delivered. Such electronic delivery may not automatically provide for an exemption from applicable sales or use tax.

h. 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.

i. Any conflict or inconsistency among or between the terms and conditions of the documents comprising this Agreement shall be resolved according to the following order of precedence, from the document with the greatest control to the least: (1) the Order Forms; (2) the SPD for the relevant CA Software or Maintenance (which shall include the CA Support Policy and Terms); (3) the MA; then (4) the Documentation for the relevant CA Software.

j. Both You and CA consent to the application of the laws in which the CA entity or Authorized CA Reseller which enters into the Agreement with You has its registered office to govern, interpret and enforce this Agreement, without regard to conflict of law principles. For the avoidance of doubt, where You enter into this MA in the US, the laws of New York shall apply. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. **To the extent allowable under law, You and CA each agree to waive the right to a jury trial.**

k. 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 orders, 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.

l. 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. CA may assign the Agreement by written notice to You.

m. 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. The limitation in Section 13.e shall not apply to this Section 13.m.



## CA Support Policy and Terms

### 1. Overview

Business Critical Support for CA software consists of operational assistance and technical support provided by CA in its reasonable judgment during the agreed-to term for Business Critical Support. CA will supply its software licensees who have enrolled in Business Critical Support with Upgrades that are made generally available ("GA") by CA, together with any additional related Documentation.

Business Critical Support is offered for generally available CA software unless CA specifically designates that software as not eligible for support or the software is licensed by CA on an "as is" basis without warranties. You are only eligible to receive Business Critical Support if you remain current on all applicable licensing and support fees due and payable to CA and are otherwise compliant with your contractual obligations to CA. CA may make other support offerings available that provide specific, customized, and/or more comprehensive forms of enhanced support (e.g., CA Short Term On-Site Support, CA Designated Support, and CA Support Consult Line. You must be an active Business Critical Support customer as a prerequisite to obtaining additional support through these offerings.

Technical support will be performed in a timely and professional manner by qualified support engineers familiar with the software. Business Critical Support generally includes:

- Direct access to technical support via online communication or telephone.
- 24x7x365 support for Severity 1 issues.
- Access to CA Support Online\* (support.ca.com) for 24x7 online technical support and access to product and Documentation downloads, Fixes, Service Packs, patch downloads, user groups, user forums, beta testing, FAQs, samples, webcast recordings and demos, usage tips, technical updates and HYPER notifications.
- Ability to open and manage issues via CA Support Online or by telephone.
- Interactive remote diagnostic support allowing technical support engineers to troubleshoot an issue securely through a real-time browser-based remote control feature.
- Upgrades for the CA software if and when CA makes them generally available. Any software so provided is subject to the same usage limitations and restrictions as the software originally licensed to you by CA.

\*CA Support Online (including Self-Service Support) may not be immediately available for products obtained by CA in corporate acquisitions. Technical support for acquired products may be provided via a separate website on an interim basis during the transition of the products to CA Support Online.

Defined terms used in this policy include the following:

"Documentation" means specifications, user documentation, and technical manuals and guides provided by CA with CA software.

"Fixes" means any change that CA makes to the software, including changes made for purposes of maintaining system compatibility, error correction, improved operation and security and Workarounds that establish or help to restore material conformity to the specifications in the Documentation for that software. A "Fix" is generally an interim solution for a specific customer problem, and is typically provided through a targeted point patch or hot fix. A "Fix" will also include any recommendations or advice provided to a customer including recommendations that a customer migrate to a current release, consideration of the issue in developing a future release of the software, or other steps to close an open issue in accordance with CA support processes.

"Maintenance Pack" or "Service Pack" means a release that provides cumulative Fixes for a particular Major Release or Minor Release of software, and typically does not contain new features or functionality. A Maintenance Pack may be available either as a download from CA Support Online or as a media kit. It is generally installed as a product overlay (also known as a patch). Maintenance Pack nomenclature is tied to the related Major Release or Minor Release. For example, a Maintenance Pack relating to Major Release 1.0 would be designated as 1.0 MP 1, 1.0 MP 2, etc., and a Maintenance Pack for Minor Release 2.1 would be designated as 2.1 MP1, 2.1 MP2, etc. A Maintenance Pack will typically be issued every three (3) to six (6) months.

"Major Release" means a release of a CA software product, excluding Fixes and Maintenance Packs, that contains substantial changes in product functionality, code, or compatibility and incorporates the previous Minor Release (if one has occurred). Typically, a Major Release requires a new installation, rather than an overlay to the already installed software. Unless otherwise specified by CA for a particular product, a Major Release is designated by the number to the left of the decimal point such as 1.0, 2.0, 3.0, etc. A Major Release will typically be issued every twelve (12) to thirty (30) months.

"Minor Release" means a release of a CA software product, excluding Fixes and Maintenance Packs, that may contain new product functionality, code, or compatibility and incorporates all previous Maintenance Packs and Fixes since the last Major Release. Typically, a Minor Release requires a new installation, rather than an overlay to the already installed software.

Unless otherwise specified by CA for a particular product, a Minor Release is tied to the preceding Major Release and is designated by a number to the right of the decimal point such as 1.1, 1.2, 1.3, etc. A Minor Release will typically be issued not more than once every six (6) months.

"Self-Service Support" means access to self-help tools provided on CA Support Online, such as product compatibility information, previously published Fixes, Workarounds, knowledge documents and other product solutions.

"Upgrades" include Documentation revisions, error corrections, product enhancements, Maintenance Packs, Major Releases and Minor Releases for the CA software for which Business Critical Support is provided, and do not include any options or products that are licensed separately by CA and are not derived from or based on the existing product or Documentation. Sometimes Upgrades are referred to as "product updates" or "software updates" in older documentation.

"Workaround" means an interim resolution of an issue and may include specific modifications to the software to address critical problems (sometimes also called "hot fixes"). In some cases, the issue addressed by the Workaround will be permanently resolved when you install the next Upgrade; the Workaround itself may be considered final if it establishes a different way for you to use the CA software that materially reduces the impact of an error or defect.

## **2. Service Level Objectives**

CA will use reasonable efforts to meet the service level objectives stated in the Service Level Objectives table below with regard to remedial software support and will provide ongoing efforts to resolve Severity 1 support incidents. All calls can be logged with CA on a 24 hours per day, 7 days per week, 365 days per year basis. Due to the complexities of technical environments, the table represents an estimate of response times only and actual resolution times may vary.

### **Severity Level Descriptions**

"Severity 1" means "System Down" or a product-inoperative condition impacting a production environment, such as (i) production server or other mission critical systems are down; (ii) a substantial portion of mission-critical data is at a significant risk of loss or corruption; (iii) a substantial loss of service; (iv) business operations have been severely disrupted; or (v) an issue in which the software causes catastrophic network or system failure or that compromises overall system integrity or data integrity when the software is installed or when it is in operation (i.e. system crash, loss or corruption of data, or loss of system security) and significantly impacts ongoing operations in a production environment, and in each of the foregoing situations (i) through (v), no Workaround is immediately available.

"Severity 2" means a high-impact business condition possibly endangering a production environment. The software may operate but is severely restricted.

"Severity 3" means a low-impact business condition with a majority of software functions still usable; however, some circumvention may be required to provide service.

"Severity 4" means (i) a minor problem or question that does not affect the software function, (ii) an error in product documentation that has no significant effect on operations; or (iii) a suggestion for new features or product enhancement.

<b>Service Level Objectives</b>	
<b>Incident Severity</b>	<b>Initial Response Time</b>
<b>1</b>	1 hour
<b>2</b>	2 business hours*
<b>3</b>	4 business hours*
<b>4</b>	1 business day*

\*During normal business hours as published on CA Support Online, based on the time from when an incident is submitted online or telephonically.

## **3. Supported Software**

Business Critical Support is provided for:

- (a) The latest Major Release of the software made generally available ("GA") by CA.
- (b) CA will use reasonable efforts to provide Business Critical Support for one previous Major Release ("GA-1") for a CA distributed product that has not reached End Of Service ("EOS") or End Of Life ("EOL") as set forth in Sections 6 and 8 below. CA may, in its sole discretion, provide Business Critical Support for GA-1 for a CA mainframe product that has not reached EOS or EOL, but it is not likely that such support will be made available.

Notifications of whether CA will provide Business Critical Support for a GA-1 product may be provided to you by letter and/or by CA posting such notifications on CA Support Online.

CA Extended Support for products and/or releases which have been officially retired and have reached their EOS or EOL may be made available in CA's discretion through customized, fee-based CA Support offerings. You may choose to



purchase CA Extended Support, when available, in order to obtain technical support beyond Self-Service Support while upgrading or migrating to a new CA product or release. When CA offers CA Extended Support, product delivery is specified on a case-by-case basis.

#### **4. Customer Responsibilities**

In order to receive Business Critical Support, you must maintain a supported environment, which includes current supported releases and platforms of CA software as published by CA. All computer hardware, operating systems, CA software and third party software associated with the affected CA software must be maintained on the latest releases and version levels that CA designates as compatible with the software. Notwithstanding the foregoing, CA may elect to provide Business Critical Support for the affected CA software.

In order to receive Business Critical Support, you must provide a technical support request in English that contains all information pertinent to the problem or issue, including but not limited to the site identification number, incident severity level, software/revision number, operating system/version, platform, a description of the problem or issue, and as available, log files/test case, memory dumps, and file listings. You must provide the name(s) and contact information, including email addresses and telephone numbers, for technical personnel who are familiar with the problem or issue and the customer's environment. You must execute diagnostic routines if provided by CA and inform CA of the results. You agree to continue to communicate with CA to verify the existence of the software problem and provide information about the conditions in which the problem could be duplicated. For severity 1 issues, CA may require that your technical contact be available 24 hours a day to offer further documentation and resolution testing, in order for CA to continue progress on the incident.

#### **5. Technical Support Limitations**

On-site maintenance and support services are not within the scope of Business Critical Support. CA may make on-site maintenance and support services available through separate fee-based CA Support offerings. If you do not have a separate agreement for on-site maintenance and support services and you request that CA provide on-site services in order to address a problem or issue with CA software, CA may determine in its sole discretion whether to provide on-site services. If on-site services are provided, CA may invoice, and you shall, within thirty (30) days of your receipt of the invoice, pay CA for such on-site services at CA's then prevailing rate, including all associated disbursements and travel expenses incurred by CA. CA may decide at its own discretion to provide on-site services at its own expense.

CA shall not be obligated to provide technical support for non-CA software, modifications to the CA software, or problems associated with products running on un-supported hardware, operating systems, or third-party software. Any such service may be available on a fee basis, as determined by CA. Such support may be limited to the provision of published Fixes for previously known problems with CA software and will not include support for new installations or implementations of supported CA software in unsupported third party environments. Ultimately, you may be required to upgrade to a supported third-party product or release, hardware platform, framework, database or operating system configuration as approved or certified in CA's published specifications to continue receiving technical support services from CA. Consulting services are not provided as part of Business Critical Support.

CA shall have no liability for any changes in your hardware or operating environment that may be necessary as a result of a Workaround or Fix. You acknowledge that any changes you elect to make to your operating environment may detrimentally affect the performance of CA software and, despite the technical support to be provided hereunder, CA shall not be responsible for such effects upon, or any degradation in performance of, the software. CA is not required to provide technical support if you do not perform your responsibilities as stated herein.

#### **6. End of Service Policy**

As new releases of products become GA, previous releases become obsolete. CA decides, at its sole discretion, when a product release will be designated end of service ("EOS") and what the end-of-service date ("EOS Date") will be. CA may also decide to withdraw support for a particular operating system, platform, application or database by following the EOS process. When a product release reaches its EOS Date, no future development or maintenance fixes will be provided for the release and Business Critical Support will cease. This does not affect any written contractual obligations CA may have to provide you with maintenance and support that are independent of Business Critical Support.

CA will use reasonable efforts to provide licensees with twelve (12) months' notice for distributed products and eighteen (18) months' notice for mainframe products prior to the EOS Date that a product release will become EOS. If a third party withdraws support for an operating system, platform, application or database, CA may not be able to provide a longer period of notice than that provided by the third party. Notifications of software product status may include upgrade or migration path information. Notifications may be provided to you by your CA representative; by letter, fax or email; and/or by CA posting such notifications on CA Support Online.

Following EOS of a product release, CA will continue to support the product at the next designated release level (or, where support has been withdrawn for a certain operating system, platform, application or database, for the remaining supported environments). CA suggests that licensees of EOS releases upgrade to the next supported product release. If you would like maintenance and support for a licensed CA product release that has reached its EOS Date, you may either:

- a. purchase a customized CA Support offering for extended support for that release, if CA has made such offering available and you meet any defined prerequisites; or
- b. continue to use the release, consistent with your license, and use Self-Service Support only.

## **7. Stabilization Policy**

A CA software product becomes Stabilized when no future development or maintenance fixes are planned, but Business Critical Support remains in effect. Features and functionality are frozen at the current release level. Licensees will receive notice that a CA product release has become Stabilized. Notifications of software product status may include upgrade or migration path information. Notifications may be provided to you by your CA representative; by letter, fax or email; and/or by CA posting such notifications on CA Support Online. As this is the phase preceding an EOL phase, you may be offered the opportunity to license an alternate CA product which provides similar or, in some cases, enhanced functionality.

## **8. End of Life Policy**

CA decides, at its sole discretion, when a software product will be designated end of life ("EOL") and what the end-of-life date ("EOL Date") will be. When a product reaches its EOL Date, no future development or maintenance fixes will be provided for all releases of the product and Business Critical Support will cease. This does not affect any written contractual obligations CA may have to provide you with maintenance and support that are independent of Business Critical Support.

CA will use reasonable efforts to provide licensees with twelve (12) months' notice for distributed products and eighteen (18) months' notice for mainframe products prior to the EOL Date that a product will become EOL. Notifications of software product status may include upgrade or migration path information. Notifications may be provided to you by your CA representative; by letter, fax or email; and/or by CA posting such notifications on CA Support Online.

An alternate CA product that provides similar or, in some cases, enhanced functionality, may be made available for licensing by CA. CA suggests that licensees of EOL products consider migrating to such an alternate product; CA may be able to assist you in formulating and implementing a migration plan through a fee-based service. If you would like maintenance and support for a CA product that has reached its EOL Date, you may either:

- a. purchase a customized CA Support offering for extended support for that product, if CA has made such offering available and you meet any defined prerequisites; or
- b. continue to use the product, consistent with your license, and use Self-Service Support only.

## **9. 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, Business Critical Support and Documentation, any derivative works thereof, deliverables provided in connection therewith, and any goodwill accruing from the use of such CA software, Business Critical Support, and Documentation, belong exclusively to and shall remain with CA and/or CA's licensors; provided that to the extent deliverables are provided by CA as part of Business Critical Support, and contingent upon your payment in full for licensing and support fees due and payable to CA, CA grants you a royalty-free, non-exclusive license to use such deliverables for your internal business purposes only, consistent with the purpose for which such deliverables were provided. You shall not make available or disclose such intellectual property to any third parties except as expressly permitted by the Policy and Terms, 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.

CA is not precluded or restricted from developing computer software or materials, or related documentation which is or may be considered competitive with any computer software or materials that may have been supplied to you as part of Business Critical Support, irrespective of their similarity. The ideas, concepts, know-how or techniques utilized or developed by CA during the performance of Business Critical Support may be further utilized by CA in any of its other business activities. CA is not restricted in its ability to reassign CA personnel who have provided services hereunder to the performance of similar support services for other customers.



## Specific Program Documentation

The CA Support offering ("Maintenance") listed below is provided under the following terms and conditions and otherwise as expressly set forth on the Order Form entered into by you and the CA entity ("CA") through which you acquire this Maintenance. These terms shall be effective from the date specified in the section of the Order Form entitled "Effective Date of Order Form".

### **CA Support Offering: Business Critical Support For Mainframe Products**

#### **Business Critical Support Policy and Terms**

Business Critical Support generally consists of technical support for CA software provided telephonically, online and via email by qualified support engineers, and upgrades for such software, in accordance with the CA Support Policy and Terms, which is available at <http://support.ca.com> and is hereby incorporated by reference. This document may be updated by CA from time to time in its sole discretion, provided that any such updates made by CA to the CA Support Policy and Terms shall only apply prospectively to CA products licensed by you on or after the date of such update. The CA Support Policy and Terms shall also apply to any options that are made separately available to Business Critical Support customers, with such options deemed to be part of "Business Critical Support" for purposes of that document.

The scope of Maintenance available under this Specific Program Documentation is limited to CA mainframe products, notwithstanding anything to the contrary in the CA Support Policy and Terms.

#### **Applicability of Business Critical Support**

Business Critical Support is offered hereunder for all generally available CA mainframe software products unless CA specifically designates that software as not eligible for support or the software is licensed by CA on an "as is" basis without warranties. You are only eligible to receive Business Critical Support if you remain current on all applicable licensing and support fees due and payable to CA and are otherwise compliant with your contractual obligations to CA.

#### **Scope of Business Critical Support**

The scope of Maintenance available under this Specific Program Documentation is limited to CA mainframe products, notwithstanding anything to the contrary in the CA Support Policy and Terms.

In accordance with the support services provided under the CA Support Policy and Terms available at <http://support.ca.com>, Business Critical Support includes the following support services:

- ✓ 24x7x365 telephone support for Severity 1 issues
- ✓ 8x5 telephone support for Severity 2-4 issues
- ✓ 24x7x365 web self-service and case management
- ✓ Standard response time service level objective
- ✓ Basic installation support
- ✓ Operational and multi-platform support
- ✓ Interoperability support
- ✓ Fixes, services packs and documentation updates
- ✓ Updates: release
- ✓ Updates: version

<http://www.ca.com/xxx/xxx>



- ✓ Proactive fix notifications
- ✓ Remote console diagnostics
- ✓ Unlimited number of problems/incidents
- ✓ Technical newsletter and User Group subscription
- ✓ Up to two (2) named contacts per licensed CA product to serve as liaison with CA Support. Technical contacts should be well trained on the use of the licensed CA product(s) and should either be responsible for maintaining your software environment, or have direct access to individuals that do.

### **Additional Options for Business Critical Support Customers**

CA may make other support offerings available that provide specific, customized, and/or more comprehensive forms of enhanced support. You must be an active Business Critical Support customer as a prerequisite to obtaining additional support through these offerings. Each option available as an add-on to Business Critical Support applies to all products for which you have obtained Business Critical Support.