



BigAnimal Terms

These BigAnimal Terms (the “Agreement”) is between you, the customer (“Customer”) and EnterpriseDB Corporation (“EDB”), under which Customer is procuring use of BigAnimal (defined below)

Certain provisions of this Agreement may not be applicable to Customer, depending on the offering that Customer has purchased from EDB. The applicable software, cloud service, Services, Support, unit of measure, pricing, cost, and length of subscription will be identified on a sales order binding upon each party. A subscription to BigAnimal allows the Customer to use BigAnimal and to receive Support as stated in this Agreement for a limited period of time identified on the Order. Once the sales order is made, Customer is legally bound to such Order. All of Customer purchases will be governed solely and exclusively by the terms and conditions of this Agreement and the applicable Order.

This Agreement is the parties’ entire agreement on this subject and merges and supersedes all related prior and contemporaneous agreements. By agreeing to these terms, Customer represents and warrants that Customer has the authority to accept this Agreement, and Customer also agrees to be bound by its terms. This Agreement applies to all Orders entered into under this Agreement. Capitalized terms have the meanings given under “Definitions.”

I. Definitions

“**Affiliate**” means any legal entity that controls, is controlled by, or is under common control with a party.

“**Anti-Corruption Laws**” means all laws against fraud, bribery, corruption, inaccurate books and records, inadequate internal controls, money-laundering, and illegal software, including the U.S. Foreign Corrupt Practices Act.

“**BigAnimal**” means the cloud service made available by EDB.

“**BigAnimal Subscription**” means the right to use and receive support for BigAnimal for a specified period of time defined in the Order.

“**Customer Cloud Environment**” means Customer’s public cloud environment into which BigAnimal is deployed and supported.

“**Control**” means ownership of more than a 50% interest of voting securities in an entity or the power to direct the management and policies of an entity.

“**Customer Content**” means all content or data provided by or on behalf of Customer or End Users by or through BigAnimal.

“**Documentation**” means all user or operational manuals EDB makes available as part of BigAnimal.

“**DPA**” means EDB’s Data Protection Addendum located at <https://www.enterprisedb.com/data-protection-addendum-biganimal>

“**EDB Software**” means EDB database management software program(s) provided as part of BigAnimal.

“**End User**” means any authorized person Customer permits to use or access BigAnimal.

“**Feedback**” means ideas, suggestions, comments, input, or know-how, in any form, that one party provides to the other in relation to the recipient’s Confidential Information, products, or services.



Feedback does not include sales forecasts, future release schedules, marketing plans, financial results, and high-level plans (e.g., feature lists) for future products.

“**Order**” means an ordering process used to transact BigAnimal through an agreed upon written instrument.

“**Personal Data**” means any information that relates to an identified or identifiable natural person and which is protected as "personal data", "personal information" or "personally identifiable information" under applicable data protection laws.

“**Representatives**” means a party’s employees, Affiliates, contractors, advisors and consultants.

“**SLA**” means the service level agreement located at <https://www.enterprisedb.com/service-level-agreement-sla-biganimal>

“**Standard Contractual Clauses**” means the standard data protection clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, as described in Article 46 of the GDPR.

“**Support Policy**” means policy relating to the technical support and maintenance services as described in the then-current policy, as updated from time to time, located at <https://www.enterprisedb.com/slo-support-terms-biganimal>

As of the date that both parties are agreeing to this Agreement, our unit of measure is a virtual core processor hour ("virtual Core hour" also known as a "vCore hour", "virtual CPU hour" or "vCPU hour") used to assign computing resources to a virtual machine. The unit of measure may change over time and will be reflected in an Order.

II. License to BigAnimal

- a. License grant.** Customer may access and use BigAnimal through Customer’s Cloud Environment for the amount of unit of measure and for the duration as transacted through an Order from a third party provider or directly through EDB, and such access and use is subject to Customer’s compliance with this Agreement, the Documentation and the terms of the Customer’s third party provider terms and conditions. This license is solely for Customer’s own internal business use and is nontransferable except as expressly permitted under this Agreement.
- b.** Subject to a BigAnimal Subscription, EDB will provide the following EDB proprietary software: Postgres Enterprise Manager, Replication Server, Migration Toolkit, LiveCompare, PgBouncer, and Connectors (e.g. JDBC, ODBC, .net, OCL) (“EDB Proprietary Software”). Customer’s right to use EDB Proprietary Software allows Customer to install the software on hardware of Customer’s choosing for the duration of the paid subscription period. Once installed, Customer can begin developing applications, but these applications must be solely for Customer’s internal business use and not for external use or resale. That being said, Customer can allow its clients to access Customer’s application(s), which uses our software, but Customer may not permit their client to access EDB Proprietary Software directly. If Customer has a need to distribute or resell EDB Proprietary Software, EDB is happy to discuss those needs, but such activity must be under a different mutually agreed upon agreement. The Customer may make additional copies of the software, provided such copies are solely for backup or archival purposes and, which are only in non-production. In order for us to protect our intellectual property, EDB require that, absent EDB’s express written consent, Customer



will not allow anyone else to: (a) copy or use EDB Proprietary Software in any manner except as expressly permitted in the agreement; (b) transfer, sell, rent, lease, distribute, or sublicense the EDB Proprietary Software; (c) allow access or permit use of the EDB Proprietary Software by any third party except authorized third party contractors solely to provide services to Customer, provided that Customer shall remain responsible for all acts and omissions of such authorized third party contractors; (d) modify or create derivative works based upon EDB Proprietary Software; (e) use EDB Proprietary Software for providing time-sharing services, service bureau services or as part of an application services provider or software as a service offering; (f) reverse engineer, disassemble, decompile EDB Proprietary Software; (g) alter or remove any proprietary notices in EDB Proprietary Software; or (h) make available to any third party any analysis of the results of operation of EDB Proprietary Software, including benchmarking results.

- c. **Duration of licenses.** Licenses are granted on a subscription or usage basis and expire at the end of the applicable subscription or usage period unless renewed and paid through the third party provider or paid to EDB.
- d. **Ownership.** Except for the rights, permissions, and licenses explicitly granted pursuant to an Order, all right, title and interest in and to the intellectual property and proprietary rights of whatever nature in BigAnimal and EDB Software, including their interfaces, extensions and derivative works, are and shall remain the exclusive property of EDB and/or its suppliers. EDB and its suppliers reserve all rights not expressly granted in this Agreement.
- e. **Feedback.** Customer is not required to give EDB any Feedback, but if Customer does provide EDB Feedback, Customer grants EDB and our Affiliates a worldwide, perpetual, irrevocable, fully paid and royalty-free right to fully exploit, use and incorporate into our products, services or software any Feedback Customer provides in our sole discretion.
- f. **Restrictions.** Except as expressly permitted in this Agreement, Documentation or an Order, Customer must not, nor permit a third party to (and is not licensed to):
 - (1) use BigAnimal in manner that violates, or causes EDB to violate, any data privacy law, data export laws, or other laws related to the use, sharing, storage or processing of personal data,
 - (2) use BigAnimal in a manner that violates any third party intellectual property or other proprietary rights,
 - (3) reverse engineer, disassemble, or use other means to attempt to discover any undisclosed source code of EDB or the underlying ideas, algorithms or trade secrets therein.
 - (4) use BigAnimal in a competitive manner.
 - (5) perform benchmarks or comparative tests or evaluations (each, a “Benchmark”) of BigAnimal unless Customer performs, discloses, or directs or permits any third party to perform or disclose, any Benchmark of BigAnimal, and Customer (i) includes in any disclosure, and discloses to EDB, all information necessary to replicate such Benchmark, and (ii) agrees that EDB may perform and disclose the results of Benchmarks of Customer products or services, irrespective of any restrictions on Benchmarks in the terms governing the Customer’s products or services.
- g. **Updates.** BigAnimal is updated from time to time due to its inherent nature. EDB reserves the right to make changes to BigAnimal at any time.



III. Customer Content

a. Customer hereby grants to EDB a limited, non-exclusive, royalty-free, worldwide right and license to access, use, display, host, copy, process and transmit any and all Customer Content to provide and improve BigAnimal in accordance with this Agreement. The terms of the DPA are hereby incorporated by reference and shall apply to the extent Customer Content includes Personal Data, as defined in the DPA. EDB will utilize Customer's business contact details consistent with EDB's privacy policy, located at <https://www.enterprisedb.com/privacy-policy>.

b. Customer represents and warrants and shall ensure that it has the right to provide the above right and license and that neither the Customer Content itself nor its use by EDB for purposes of this Agreement shall violate any applicable law or infringe, misappropriate, or otherwise violate any rights of any third party, including intellectual property rights, privacy rights and other rights under contract or law.

c. Customer represents and warrants that it shall not transmit to EDB, in connection with BigAnimal, any Customer Content that includes any Personal Data that constitutes: (a) employment, genetic, biometric or health information (including "protected health information" as defined under the Health Insurance Portability and Accountability Act) or similar laws; (b) "personal information" about individuals under the age of thirteen (13) as such term is defined under the Children's Online Privacy Protection Act or similar law; (c) government issued identification numbers, including social security numbers, driver's license numbers and other state-issued identification numbers; (d) cardholder or sensitive authentication data, as those terms are defined in the Payment Card Industry Data Security Standards, or financial account information, including bank account numbers (other than such data necessary to pay for any amounts payable to EDB in connection with BigAnimal); (e) the combination of a username or email address along with a password or security question and answer that would permit access to an online account (except for Registration Information); (f) racial, ethnic, political or religious affiliation, trade union membership, or information about sexual life or sexual orientation; (g) personal data relating to criminal history; or (h) any other information or combinations of information that falls within the definition of "special categories of data" under European Data Protection Laws or any other Applicable Data Protection Laws. If any such Customer Content is inadvertently transmitted to EDB, Customer acknowledges and agrees that it shall cooperate with EDB to securely delete such Customer Content.

IV. Confidentiality

a. **Confidential Information.** "Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to: business, financial and technical information, the terms of this Agreement, and Customer's account authentication credentials. Confidential Information does not include information that: (1) becomes publicly available without a breach of a confidentiality obligation; (2) the receiving party received lawfully from another source without a confidentiality obligation; (3) is independently developed without use of or reference to Confidential Information; or (4) is a comment or suggestion volunteered about the other party's business, products or services.

b. **Protection of Confidential Information.** Each party will take reasonable steps (but no less than those employed by the receiving party for its information of similar nature) to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose Confidential Information to third parties, except to its Representatives, and then only on a need-to-know basis (to administer the purpose of this Agreement) under nondisclosure obligations at least as protective as this Agreement. Each party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery



of any unauthorized use or disclosure, must promptly notify the other party.

c. Disclosure required by law. A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

d. Duration of Confidentiality obligation. These obligations apply: (1) for data uploaded to BigAnimal, until it is deleted by EDB; and (2) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

V. Consulting & Support Services

a. Consulting Services. Customer may purchase consulting services from EDB. An Order will be through an EDB Order form or statement of work. Customer will provide EDB with reasonable assistance and information to facilitate scheduling and performance of the consulting services. Customer will also appoint an engagement manager to help ensure effective delivery of the consulting services. Consulting services and any Deliverables are accepted when delivered unless otherwise set forth in an Order form. Deliverables means work provided to Customer as a part of the Consulting Services, including any report. EDB may engage qualified subcontractors to provide the Consulting Services, and EDB is responsible for any subcontractor's compliance with this Agreement. EDB grants Customer a royalty-free, perpetual, nontransferable and nonexclusive license to use and reproduce any Deliverables for Customer's internal business purposes, except for training materials, which may only be used by the individual employees who attended the training session. Notwithstanding the foregoing, EDB reserves all other rights not expressly granted herein.

b. Support. EDB will provide support in accordance with the applicable Support Policy.

c. Uptime SLA: EDB agrees to provide the uptime SLA.

VI. Customer Obligations

a. Customer is responsible for its own devices, systems, applications, connections and software used to access BigAnimal. The Customer shall be responsible for the protection of the Customer's data communications and data systems and costs for communications and other comparable costs related to use of BigAnimal.

b. Customer shall ensure that any End Users it authorizes to use BigAnimal shall comply with this Agreement at all times and use BigAnimal only in accordance with this Agreement. The Customer shall be responsible for any use of BigAnimal under the Customer's account.

c. Customer shall be responsible for ensuring that its authorized users maintain their user names and passwords diligently and do not disclose them to third parties.

d. The Customer is solely responsible for the successful completion, integrity, and restorability of backups.

VII. Representation and Warranties

a. Limited Warranty. EDB warrants to Customer that BigAnimal will perform materially in accordance with the Documentation.

b. Exclusions. EDB's warranty in this Section VII (Warranty) does not extend to beta features, or to issues that result from: (i) Customer's failure to implement updates issued by EDB; (ii) any alterations or



additions to or integrations with BigAnimal not performed by or at the direction of EDB; (iii) failures that are not reproducible by EDB; (iv) operation of BigAnimal in violation of this Agreement or not in accordance with its Documentation; (v) failures caused by software, hardware or products not licensed by EDB to Customer hereunder; or (vi) Customer's failure to follow EDB's supported software policies.

c. Remedies. In the event of a breach of a warranty under this section, EDB will, at its discretion and cost, either repair or replace BigAnimal feature(s) that were the subject of the breach of warranty or refund a portion of fees previously paid to EDB that are associated with BigAnimal features(s) that were the subject of the breach of warranty. This is Customer's exclusive remedy, and EDB's sole liability, arising in connection with the limited warranties herein.

d. DISCLAIMER OF WARRANTY. EXCEPT AS SET OUT IN SECTION VII (WARRANTY) HEREOF, UNLESS REQUIRED BY APPLICABLE LAW, BIGANIMAL AND SERVICES ARE PROVIDED TO CUSTOMER "AS IS," WITHOUT ANY WARRANTIES OF ANY KIND. EDB AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OR CONDITIONS OF TITLE, MERCHANTABILITY, CORRECTNESS, RELIABILITY, AND/OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY DISCLAIMED. EDB AND ITS SUPPLIERS DO NOT WARRANT THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ERRORS WILL BE CORRECTED.

VIII. Indemnities

a. Customer Indemnity. Customer shall indemnify, defend, and hold EDB and its Affiliates and licensors, and its and their employees, officers, directors, and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and court costs) to the extent arising out of or in connection with the Customer Content or Customer's use of or access to BigAnimal, except for claims that BigAnimal infringes or misappropriates a third party's intellectual property rights.

b. EDB Indemnity. If a third party claim is brought against Customer claiming that BigAnimal provided under this Agreement infringes such third party's Berne Convention intellectual property right ("Claim"), EDB will defend the Claim and indemnify Customer from the resulting costs and damages awarded by a court of competent jurisdiction against Customer or agreed in settlement by EDB. If Customer's use of BigAnimal hereunder is enjoined due to a Claim, then EDB may, at EDB's sole option and expense: (a) procure for Customer the right to continue using BigAnimal under the terms of this Agreement; (b) replace or modify BigAnimal so that it is non-infringing, but functionally equivalent in all material respects; or (c) request return of the applicable software and, upon receipt of such notice, the corresponding licenses are terminated and EDB will refund the prepaid but unused fees paid for EDB's infringing software. EDB's obligations under this section are contingent upon: (i) Customer giving prompt written notice to EDB of any Claim; (ii) Customer allowing EDB to control the defense and any related settlement of any Claim; and (d) Customer furnishing EDB with reasonable assistance in the defense of any Claim. This section does not apply to the extent the alleged infringement is based on (1) combination with products, data or business processes not owned by EDB, (2) Customer's application and Customer Content developed with EDB's software, (3) use of any older release of BigAnimal when use of a newer revision (offered to Customer) would have avoided the infringement, (4) any modification or alteration of BigAnimal unless performed by EDB, (5) any intellectual property right owned or licensed by Customer, (6) EDB's compliance with any materials, designs, specifications or instructions provided by Customer, (7) Customer's continued use of BigAnimal after notified to discontinue using BigAnimal



due to a Claim, or (8) unmodified open source software. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND EDB'S ENTIRE LIABILITY FOR INFRINGEMENT CLAIMS.

IX. Limitation of Liability

a. Exclusions. EXCEPT FOR VIOLATIONS OF THE OTHER PARTY'S INTELLECTUAL PROPERTY, BREACH OF SECTION IV (CONFIDENTIALITY), WILLFUL OR RECKLESS ACTS OR OMISSIONS, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING ANY LOST PROFIT, LOST DATA, OR BUSINESS INTERRUPTION, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. Aggregate Liability. IN ANY EVENT, AND NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, EXCEPT WITH RESPECT TO A PARTY'S GROSS NEGLIGENCE, WILFUL MISCONDUCT OR INTENTIONAL BREACH OR CUSTOMER'S PAYMENT OBLIGATIONS OR CUSTOMER'S INDEMNIFICATION FOR BREACH OR ALLEGED BREACH OF SECTION II OR SECTION IV OF THIS AGREEMENT, THE AGGREGATE LIABILITY OF EACH PARTY FOR ANY REASON AND UPON ANY CAUSE OF ACTION UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT PAID OR PAYABLE DURING THE TWELVE (12) MONTHS PRIOR TO WHEN THE CAUSE OF ACTION AROSE WHETHER SUCH AMOUNT PAID WAS THROUGH MICROSOFT OR DIRECTLY, BUT PROVIDED IT IS RELATING TO THE APPLICABLE ORDER IN CONTROVERSY.

X. Pricing and Payment

Customer's pricing and payment terms for a given Order are set forth and governed by the Customer's applicable Order through a third party or EDB.

a. Third party. If Customer is purchasing BigAnimal through a third-party, all payment terms are governed by the third-party provider.

b. EDB. If Customer purchases BigAnimal from EDB, EDB will invoice Customer once both parties execute an Order form or statement of work and Customer agrees to pay EDB the fees on such invoice. Unless agreed otherwise on an Order form or statement of work, Customer will pay all invoices within thirty (30) days from the date of invoice. Customer is legally bound to such Order irrespective of whether or not Customer chooses to issue a purchase order. Any pre-printed terms and conditions on a purchase order sent by Customer shall not be binding on EDB. Our fulfillment of a purchase order does not mean that EDB accept any of the pre-printed terms and conditions on that purchase order and EDB hereby reject any such terms. If Customer does not pay invoices when due, EDB may charge interest at a rate up to one percent (1%) per month on the unpaid balance from the date that it was late. If Customer fails to make any payment to EDB when due, EDB may cancel or suspend work on any pending Order form, statement of work or suspend use of the subscription. EDB are not responsible for any taxes related to orders received other than taxes on our income. Therefore, Customer will also pay an amount equal to any taxes arising from or relating to this Agreement, including without limitation, sales, service, use or value-added taxes. If Customer is required under any applicable law or regulation to withhold or deduct any portion of the payments due to EDB, then the sum payable to EDB will be increased by the amount necessary so that EDB receives an amount equal to the sum specified on the Order form or statement of work. Except as otherwise specifically set forth in this Agreement, fees are non-refundable upon payment.



c. **Non-payment.** If Customer has not properly paid EDB or a third-party through whom Customer has purchased BigAnimal, Customer must not use BigAnimal. EDB reserves the right to revoke Customer's access to BigAnimal if full payment is not received.

XI. Term and Termination

a. **Term.** This Agreement is effective until terminated by a party, pursuant to the terms in this section. The term for each Order will be set forth therein.

b. **Termination for cause.** EDB may suspend in whole or in part use of BigAnimal hereunder, including access to it and any data housed therein, immediately if (a) EDB has a good faith reasonable belief that the use of BigAnimal (i) poses a material risk to BigAnimal, to EDB or EDB vendors, partners, or customers, (ii) violates this Agreement or applicable law, or (b) Customer has made an assignment for the benefit of creditors or similar disposition of assets, or become the subject of any bankruptcy, liquidation, reorganization, dissolution, or similar proceeding. Either Party may terminate this Agreement or an Order for cause if the other Party materially breaches this Agreement or that Order (as applicable) and does not remedy that breach within thirty (30) days after receipt of notice of the breach. If EDB suspends or terminates Customer's use of BigAnimal in whole or in part pursuant to this section, all Fees which would have been otherwise owed in respect of BigAnimal or services pursuant to the Order absent such suspension or termination will be due and payable within thirty (30) days, without discount or pro rata reduction.

c. **Effect of Termination.** Upon termination of any Order or this Agreement, EDB will delete the applicable customer data in accordance with its policies, all rights granted to Customer under that Order or this Agreement will immediately terminate, and Customer will have no further rights hereunder to continue use of the offer or services licensed hereunder. Notwithstanding termination of this Agreement or any Order, any provisions of this Agreement or any Order that by their nature are intended to survive, will survive termination.

XII. Miscellaneous

- a. **Entire Agreement.** This Agreement supersedes all prior and contemporaneous communications, whether written or oral, regarding the subject matter covered in this Agreement
- b. **Amendments.** Unless otherwise agreed in a writing signed by both parties, EDB will not change the terms of this Agreement, including privacy terms, during the term of this Agreement.
- c. **Assignment.** Neither Party may assign this Agreement or its rights or obligations under this Agreement to any person or party, whether by operation of law or otherwise, without the other Party's prior written consent, which will not be unreasonably withheld. The foregoing notwithstanding, EDB will have the right by operation of law or assignment to transfer this Agreement to a new parent through acquisition, provided the new parent assumes this Agreement.
- d. **Severability.** If any part of this Agreement is held to be unenforceable, the rest of the Agreement will remain in full force and effect.
- e. **Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- f. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights except as expressly provided by its terms.
- g. **Export Regulations.** Each Party shall comply with the export, sanctions, import or other trade laws and regulations of the United States and any other applicable jurisdiction (the "Trade Laws") with



respect to the offering of the software or any direct product thereof or any of the services contemplated by this Agreement (collectively, the “Services”). Each Party represents and warrants that neither it nor any of its officers or directors is identified on any U.S. government list of persons or entities prohibited from receiving exports or otherwise subject to sanctions, and no such sanctioned party has an interest in the Party. Neither Party shall, directly or indirectly, permit any other party to access or use any of the Services in violation of any Trade Laws. Without limiting the generality of the foregoing, neither Party shall engage in or permit the export, re-export, or transfer (in country) of any part of BigAnimal: (i) to any jurisdiction that is subject to comprehensive U.S. sanctions or any party ordinarily resident in such jurisdiction; (ii) to any party identified on (or controlled by one or more parties identified on) any U.S. government restricted party list, including without limitation the U.S. Commerce Department Bureau of Industry and Security Denied Persons List, Entity List, and Unverified List or The U.S. Treasury Department Office of Foreign Assets Control list of Specially Designated Nationals; or (iii) to any jurisdiction or party to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval without first obtaining such license or approval.

- h. **Anti-Corruption.** All business is to be conducted fairly. EDB does not tolerate corruption, bribery, or kickbacks of any kind. Customers are to comply with applicable Anti-Corruption Laws of the various countries and jurisdictions in which they conduct business and will take “reasonable measures” to ensure that the third parties they engage will likewise refrain from such activity.
- i. **Notices.** Notices must be in writing and will be treated as delivered on the date received at the address, date shown on the return receipt, email transmission date, or date on the courier or fax confirmation of delivery. Notices to EDB must be sent to General Counsel at 34 Crosby Drive, Suite 201, Bedford, MA 01730 and legal-notices@enterprisedb.com. Notices to Customer will be sent to the individual at the address Customer identifies on its account as its contact for notices. EDB may send notices and other information to Customer by email or other electronic form.
- j. **Applicable law.** This Agreement is governed by the laws of the Commonwealth of Massachusetts, U.S.A., excluding its conflicts of law rules. The parties expressly agree that the UN Convention for the International Sale of Goods will not apply. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in Middlesex County, Massachusetts and the parties hereby irrevocably consent to the personal jurisdiction and venue there.
- k. **Government Rights.** This is applicable for Government sales only. Our software and associated documentation are "commercial computer software" and “commercial computer software documentation”, respectively, as those terms are described in DFAR 252.227-7014(a). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48C.F.R. 12.212 (Computer Software) and 12.11 (Technical Data) of the Federal Acquisition Regulations ("FAR") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors.
- l. **Construction.** Neither party has entered this Agreement in reliance on anything not contained or incorporated in it. This Agreement is in English only. Any translation of this Agreement into another language is for reference only and without legal effect. If a court of competent jurisdiction finds any term of the Agreement unenforceable, the Agreement will be deemed modified as necessary to make it enforceable, and the rest of the Agreement will be fully enforced to effect the parties’ intent.

// END OF AGREEMENT//



EDB Updated May 2, 2022