

Subscription Terms and Conditions

These Subscription Services Terms and Conditions apply to the provision of subscription services ("Subscription Services") to be provided by EnterpriseDB Corporation ("EnterpriseDB"), whose principal place of business is 34 Crosby Drive Suite 100, Bedford, MA 01730 to the purchaser identified on an Order Form ("Customer"). Together with the Order Form, these terms and conditions form an agreement between EnterpriseDB and Customer ("Agreement"). This Agreement is effective as of the date the Order Form is signed by both parties ("Effective Date").

1. **Subscription Services.** EnterpriseDB will provide Subscription Services as set forth in Exhibit A for the software ("Software") listed on an Order Form entered into by the parties available to Customer. Customer acknowledges that in order for EnterpriseDB to provide the Subscription Services, Customer may be required to license and install certain third party software and provide certain third party hardware that are not provided or licensed by EnterpriseDB ("Third Party Products"). EnterpriseDB may provide Customer with links and instructions for obtaining Third Party Products, but it is Customer's responsibility to properly license and install any required Third Party Products from the relevant third party providers. EnterpriseDB will have no liability with respect to any Third Party Products.

2. **Payment Terms.** Customer agrees to pay EnterpriseDB the fees set forth in the applicable Order Form. Unless an Order Form states otherwise, Customer will pay all invoices within thirty (30) days from receipt of invoice. Customer will be responsible for reimbursement of EnterpriseDB's out-of-pocket expenses incurred in performing its duties under any Order Form, including, but not limited to, expenses for travel, lodging, and similar items. Customer will reimburse EnterpriseDB's expenses no later than thirty (30) days after the date of EnterpriseDB's invoice. All fees are exclusive of any Taxes. Customer will pay to EnterpriseDB an amount equal to any Taxes arising from or relating to this Agreement, including without limitation, sales, service, use or value-added taxes, which are paid by or are payable by EnterpriseDB. "Taxes" means any form of taxation, levy, duty, customs fee, charge, contribution or impost of whatever nature and by whatever authority imposed, including, without limitation, any fine, penalty, surcharge or interest, but excluding any taxes based solely on the net income of EnterpriseDB. If Customer is required under any applicable law or regulation, domestic or foreign, to withhold or deduct any portion of the payments due to EnterpriseDB, then the sum payable to EnterpriseDB will be increased by the amount necessary so that EnterpriseDB receives an amount equal to the sum it would have received had Customer made no withholdings or deductions. Fees for Subscription Services are non-refundable upon payment. If Customer does not pay invoices when due, EnterpriseDB may charge

interest at up to one percent (1%) per month on the unpaid balance. If Customer fails to make any payment to EnterpriseDB when due, EnterpriseDB may, at its sole discretion and without affecting its rights under this Agreement, cancel or suspend work on any pending Order Forms.

3. Confidential Information. Customer and EnterpriseDB agree to maintain the confidentiality of any proprietary information received by the other party during, or prior to entering into, this Agreement that a party should know is confidential or proprietary based on the circumstances surrounding the disclosure, including, without limitation, non-public technical and business information ("Confidential Information") during the term of this Agreement and for a period of two (2) years after the termination of this Agreement. This section will not apply to: (i) any information that was in the public domain at or subsequent to the time such Confidential Information was communicated to the receiving party by the other party, (ii) was rightfully in the receiving party's possession free of any obligation of confidence at or subsequent to the time such Confidential Information was communicated by the other party, and (iii) was developed by the receiving party or its employees, contractors or agents independently of and without reference to any Confidential Information. A disclosure of any Confidential Information: (x) in response to a valid order by a court or other governmental body or (y) as otherwise required by law will not be considered to be a breach of this Agreement or a waiver of confidentiality for other purposes; provided, however, that the receiving party will provide prompt advance written notice thereof to the disclosing party to enable the disclosing party to seek a protective order or otherwise prevent such disclosure. The receiving party of any Confidential Information of the other party agrees not to use said Confidential Information for any purpose except as necessary to fulfill its obligations and exercise its rights under this Agreement. The receiving party will protect the secrecy of and avoid disclosure and unauthorized use of the disclosing party's Confidential Information to the same degree that it takes to protect its own confidential information and in no event less than reasonable care. The receiving party shall not make Confidential Information available to any of its employees or consultants except those that have agreed to obligations of confidentiality at least as restrictive as those set forth herein and have a "need to know" such Confidential Information. The receiving party is liable for all acts and omissions of its employees and consultants that such act or omission would be a breach of this Agreement if it had been done by receiving party. Each party agrees to notify the other party in writing promptly upon discovery of any unauthorized access, disclosure, or use of the Confidential Information. Each party acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of any Confidential Information and that the other party may seek, without

waiving any other rights or remedies and without posting any bond, injunctive or equitable relief.

4. Ownership. Customer agrees that nothing in this Agreement will be deemed to prohibit or limit EnterpriseDB's use, now or at any time, of ideas, concepts, know-how, methods, techniques, skill, knowledge and experience, in any way whatsoever, that are used or developed in the performance of Subscription Services under this Agreement or any Order Form. Further, Customer agrees that should EnterpriseDB perform Subscription Services on products licensed by EnterpriseDB or used by EnterpriseDB to provide Subscription Services, then EnterpriseDB retains, and Customer hereby assigns, all right, title, and interest in and to all modifications, enhancements, customizations, source code, acquired or developed during the performance of the Subscription Services under this Agreement or any Order Form.

5. Warranties.

5.1 Performance. EnterpriseDB represents and warrants that the Subscription Services will be performed in a professional manner consistent with the level of care, skill, practice and judgment exercised by other professionals in performing services of a similar nature under similar circumstances by personnel with requisite skills, qualifications and licenses needed to carry out such work. For any breach of this warranty, Customer's sole and exclusive remedy, and EnterpriseDB's sole and exclusive obligation, will be for EnterpriseDB to use commercially reasonable efforts to correction of defective work, within a reasonable time, so as to comply with generally accepted industry standards. Any claim based on the breach of the foregoing warranty must be submitted in writing within ten (10) days from the date of delivery of the Subscription Services.

5.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, ENTERPRISEDB PROVIDES THE SUBSCRIPTION SERVICES TO CUSTOMER "AS IS". ENTERPRISEDB MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SUBSCRIPTION SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT. ENTERPRISEDB DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT WILL OPERATE UNINTERRUPTED OR THAT THEY WILL BE FREE FROM DEFECTS OR THAT THE SUBSCRIPTION SERVICES ARE DESIGNED TO MEET CUSTOMER'S BUSINESS REQUIREMENTS. ENTERPRISEDB DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT, AND ALL WARRANTIES THAT MAY ARISE FROM

COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. CUSTOMER ACKNOWLEDGES THAT THE SUBSCRIPTION SERVICES ARE NOT INTENDED FOR USE IN CONNECTION WITH ANY HIGH RISK OR STRICT LIABILITY ACTIVITY (INCLUDING, WITHOUT LIMITATION, AIR OR SPACE TRAVEL, POWER PLANT OPERATION, OR LIFE SUPPORT OR EMERGENCY MEDICAL OPERATIONS) AND THAT ENTERPRISEDB MAKES NO WARRANTY AND SHALL HAVE NO LIABILITY IN CONNECTION WITH ANY USE OF THE SUBSCRIPTION SERVICES IN SUCH SITUATIONS.

6. Non-Solicitation. Customer and Customer's Affiliates may not hire, or directly or indirectly solicit or employ, any employee of EnterpriseDB without the prior written consent of EnterpriseDB, for a period of: (i) two (2) years after the termination of this Agreement, or (ii) during the time the employee is employed by EnterpriseDB and for a period of one (1) year thereafter, whichever is later.

7. Limitation of Liability. Notwithstanding any other clause in this Agreement, in no event will EnterpriseDB be liable for any special, indirect, incidental, punitive, exemplary or consequential damages (including, without limitation, any failure to realize savings or other benefits; any loss of use; or any claims made by or any payments made to any third person), any loss of revenue or profits, any loss and/or damage arising from or in connection with a virus, or any loss of data and/or damage arising there from or relating thereto, in each case arising from or in connection with this Agreement or the use or performance of any Software whether in an action based on contract, tort or any other legal theory, whether or not EnterpriseDB has been notified of the possibility thereof. Notwithstanding any other clause in this Agreement, EnterpriseDB's total aggregate liability and Customer's sole remedy for any damages arising from or in connection with this Agreement or the use or performance of any Software whether in actions based on contract, tort or any other legal theory, and whether or not EnterpriseDB has been notified of the possibility thereof, will be limited to proven direct damages caused by EnterpriseDB's sole negligence in an amount not to exceed the amount paid under this Agreement during the twelve (12) month period preceding the date of the claim. The foregoing limitations, exclusions and disclaimers are an allocation of the risk between the parties and will apply to the maximum extent permitted by applicable law, even if any remedy fails in its essential purpose.

8. Term and Termination. This Agreement is effective as of the Effective Date and unless as otherwise set forth in an Order Form, this Agreement will continue unless terminated earlier as set forth in this Section. Either party may terminate this Agreement by giving written notice to the other, in the event the other party (i) ceases to do business in the ordinary course, (ii) becomes or is declared insolvent or bankrupt, (iii) is the subject of any proceeding related to its liquidation or insolvency, which proceeding,

if involuntary, is not dismissed within sixty (60) days, (iv) makes an assignment for the benefit of its creditors, or (v) materially breaches any provision of this Agreement and fails to remedy such breach within thirty (30) days after receipt of written notice of such breach given by the non-breaching party. In the event of a termination of this Agreement, Customer must de-install all Software licensed from EnterpriseDB and cease all use of such Software. Sections 2 -10 will survive the expiration or termination of this Agreement. In addition, Customer will pay EnterpriseDB all monies that become due prior to the date of termination.

9. Miscellaneous.

9.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, notwithstanding any different or additional terms that may be contained in the form of purchase order or other document used by Customer to place orders or otherwise effect transactions hereunder. This Agreement supersedes all prior or contemporaneous discussions, proposals and agreements between the parties relating to the subject matter of this Agreement. No amendment, modification or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties. Unless the parties expressly state that a term of this Order Form supersedes the terms of this Agreement, the terms of this Agreement will control and supersede the terms of the Order Form. Customer purchase orders will be for the sole purpose of defining quantities, prices and describing the Subscription Services to be provided under this Agreement, and to this extent only are incorporated as a part of this Agreement and all other terms in purchase orders are rejected. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of a party, its agents, or employees, but only by an instrument in writing signed by an authorized officer of the party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.

9.2 Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions will remain in full force and effect and such provision will be enforced to the maximum extent possible so as to effect the intent of the parties and will be reformed to the extent necessary to make such provision valid and enforceable.

9.3 Force Majeure. Neither party will be liable or deemed to be in breach for any delay or failure in performance of this Agreement or any Order Form (except for the payment of money) or interruption of services resulting directly or indirectly from acts of God, civil or military authority, war, riots, civil disturbances, accidents, fire, earthquake, floods,

strikes, lock-outs, labor disturbances, foreign or governmental order, or any other cause beyond the reasonable control of such party.

9.4 Governing Law and Venue. This Agreement will be governed by the laws of New York without regard for its choice of law provisions. All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of the state or federal courts of New York, and each party irrevocably consents to such personal jurisdiction and waives all objections to this venue.

9.5 Export Regulations. Customer will comply fully with all export control laws and regulations of the United States and all other jurisdictions.

9.6 Assignment. Customer may not assign this Agreement without the prior written consent of EnterpriseDB, whether by operation of law, sale of securities or assets, merger or otherwise, and any such assignment in violation of this Section shall be void.

9.7 Marketing. EnterpriseDB may use Customer's name and company logo on its customer list and web site, and link to Customer's web site.

9.8 Independent Contractor. The relationship of the parties is that of independent contractors. Neither party will be deemed to be the legal representative of the other nor will it have any right to bind the other party to any contract or commitment. This Agreement does not, and will not, be construed to create an employer-employee, agency, joint venture or partnership relationship between the parties. Each party agrees to assume complete responsibility for its own employees regarding federal or state laws, including employers' liability and tax withholding, worker's compensation, social security, unemployment insurance, and OSHA requirements.

9.9 Notice. All notices and other communications herein permitted or required under this Agreement will be sent by postage prepaid, via registered or certified mail or overnight courier, return receipt requested, or delivered personally to the parties at their respective addresses, or to such other address as either party will give to the other party in the manner provided herein for giving notice. Notice will be considered given upon receipt.

9.10 Headings. The headings in this Agreement are for purposes of reference only and will not in any way limit or affect the meaning or interpretation of any of the terms hereof.

10. Definitions.

10.1 "Business Day" means 8:00 AM to 8:00 PM (local time) Monday through Friday excluding any EnterpriseDB holidays.

10.2 "Documentation" means any end user manuals or on-line help files regarding the use of the Software that accompany the Software.

10.3 "Error" means a failure of Software to materially conform to the specifications as described in the applicable Documentation.

10.4 "General Release Date" means the date upon which EnterpriseDB announces on its website or otherwise that an Upgrade has entered general release.

10.5 "Initial Response Period" means, for any single Support Request, the elapsed period measured from the time that Customer initiates the Support Request until EnterpriseDB provides a Response.

10.6 "Maintenance Release" means a version of a Software identified by the second digit to the right of the decimal point ((x).xX)

10.7 "Named Contacts" mean the individuals authorized to contact EnterpriseDB for Subscription Services. Such individuals should be trained and knowledgeable about the Software and the EnterpriseDB resolution procedures to be used with the Software. Named Contacts may be changed by providing EnterpriseDB with at least ten (10) days prior written notice. Customers purchasing Basic Subscriptions are entitled to one (1) Named Contact and Customers purchasing Premium Subscriptions are entitled to four (4) Named Contacts.

10.8 "Release" means a version of a Software identified by the first digit to the left of the decimal point ((X).xx).

10.9 "Resolution Response Goal Period" is the goal for EnterpriseDB of the time required to provide a documented fix that restores full (or near full) functionality to Customer.

10.10 "Response" means EnterpriseDB's acknowledgment of a Support Request received from Customer.

10.11 "Severity 1 Error" means a catastrophic production Error in the Software which severely impacts Customer's production systems, or in which the Software in Customer's production systems are down or not functioning; or an Error in the Software which is causing a loss of production data and no procedural work around exists. Severity 1 Errors also include security breaches.

10.12 "Severity 2 Error" means the Software, which is in production, is operational but certain major functions are not performing in accordance with the Documentation and no workaround is available.

10.13 "Severity 3 Error" means (a) minor functions of the Software, which is in production, are not performing in accordance with the Documentation or (b) the Software, which is in development or a test environment, is not performing in accordance with the Documentation.

10.14 "Support Request" means a request communicated by Customer to EnterpriseDB using the designated procedure to report an Error and to request a correction of such Error.

10.15 "Upgrade" means any new Release, Version and Maintenance Fix to the Software made available by EnterpriseDB to the Customer.

10.16 "Version" means a later version of the Software identified by a change in the digits to the right of the decimal point ((x).Xx).

Version 2.8 (www.enterprisedb.com/ba/subscription-terms-v2-8)

EXHIBIT A

SUBSCRIPTION SERVICES TERMS

1. Support Services. EnterpriseDB will use reasonable commercial efforts to respond to the Support Request from the Named Contacts within the Initial Response Period below.

Service Level	Jump Start or Developer	Basic	Premium
Restrictions	Limited to 1 Socket	None	None

Severity Error Level 1 Resolution Target Response Goal	5 Business Days	3 Business Days	24 Hours
Severity Error Level 2 Resolution Target Response Goal	10 Business Days	5 Business Days	48 Hours
Severity Error Level 3 Resolution Target Response Goal	15 Business Days	10 Business Days	5 Business Days
Initial Target Response Time Target	2 Business Days	1 Business Day	1 Hour
Subscription Services Hours	Business Hours	Business Hours	24 x 7
Number of Annual Subscription Services Incidents	Maximum of 3 open tickets in any 48 hour period	Unlimited	Unlimited
Incident Type	Application Development Only	Production Support	Production Support

2. Upgrades and Term of Support for Versions.

2.1 EnterpriseDB will make available to Customer each new Upgrade on its General Release Date.

2.2 EnterpriseDB will provide Subscription Services for each Version on the following terms:

(i) For the first three years after the General Release Date of a Version, EnterpriseDB will provide the Subscription Services for all Severity Error Levels and make new Upgrades available to Customer on their General Release Date;

(ii) For the fourth and fifth years following the General Release of a Version, EnterpriseDB will, at its discretion and upon a mutually negotiated annual fee: a) provide the Subscription Services only for Severity 1 Errors and Severity 2 Errors, and b) make new Updates available.

3. Subscription Services Prerequisites. Customer will cooperate with and provide assistance to EnterpriseDB as EnterpriseDB may reasonably request in order to assist EnterpriseDB in the performance of Subscription Services, including, without limitation, providing all necessary assistance and information (according to the formats and templates specified by EnterpriseDB) to EnterpriseDB's support personnel reasonably required to enable such personnel to determine if a Customer problem is related to an Error or is due to some other issue. Customer will provide EnterpriseDB functioning test code which reproduces and isolates the Error. The test code will have extraneous comments and code removed and to the extent possible, will be fully self-contained and automated, and will demonstrate the precise Error reported rather than other possible problems. The test code must be reproducible on EnterpriseDB's test systems. If Customer finds it necessary or expedient to include third party code or libraries in the test code submitted to EnterpriseDB, Customer is responsible for obtaining permission from the applicable third party for such submission. If Customer cannot provide test code which reproduces the problem, EnterpriseDB may be unable to resolve the Error, but will be available to work with Customer to assist in the development of a test case. All Subscription Services are provided remotely from EnterpriseDB's offices. Customer will provide EnterpriseDB with access (via remote telecommunications and, if applicable, on-site access) at Customer's premises to the extent reasonably necessary to allow EnterpriseDB to provide the Subscription Services. Customer will bear all costs associated with procuring, installing and maintaining all equipment, telephone lines and communications interfaces necessary for EnterpriseDB to have the necessary telecommunications access to provide Subscription Services. If EnterpriseDB personnel travel to a Customer location for an issue that is not an Error in the Software, EnterpriseDB may charge Customer standard consulting rates plus travel and living expenses.

4. Exclusions. Unless otherwise agreed to in an executed Order Form, EnterpriseDB will not provide Subscription Services in any of the following circumstances:

4.1 A failure of hardware, equipment or programs not covered by this Agreement;

4.2 Customer's failure to comply with operating instructions contained in the Documentation;

4.3 A modification, enhancement or customization of the Software

4.4 Any cause or causes beyond the reasonable control of EnterpriseDB (e.g. floods, fires, loss of electricity or other utilities), errors arising from anything other than Software, such as databases, web-servers or hardware;

4.5 Installation, configuration, management and operation of the Customer's applications;

4.6 Software obtained from anyplace other than through the EnterpriseDB website; or

4.7 APIs interfaces or data formats other than those included with the Software.

4.8 Use of the Software for providing time-sharing services, service bureau services or as part of an application services provider or software as a service offering;

EnterpriseDB will have no obligation to provide Subscription Services if Customer has not paid all applicable fees payable pursuant to this Agreement, or is otherwise not in compliance with the terms of this Agreement.

5. Premium Service Upgrade. Customer may upgrade to Premium Service Level by giving written notice to EnterpriseDB and paying the fee set by EnterpriseDB for the Premium Service Level.

6. Developer Subscription Upgrade. Customer may upgrade from the Jump Start Subscription to the 12 Month Developer Subscription by giving written notice to EnterpriseDB and paying the fee set by EnterpriseDB for the Developer Subscription Upgrade.