

Subscription Agreement

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE PURCHASING OR USING RED HAT PRODUCTS AND SERVICES. BY USING OR PURCHASING RED HAT PRODUCTS OR SERVICES, CLIENT SIGNIFIES ITS ASSENT TO THIS AGREEMENT. IF YOU ARE ACTING ON BEHALF OF AN ENTITY, THEN YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. IF CLIENT DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT PURCHASE OR USE RED HAT PRODUCTS AND SERVICES.

This Subscription Agreement, including all schedules and appendices hereto (the "**Agreement**"), is between Red Hat Limited ("**Red Hat**") and the purchaser or user of Red Hat products and services that accepts the terms of this Agreement ("**Client**"). The effective date of this Agreement ("**Effective Date**") is the earlier of the date that Client signs or accepts this Agreement or the date that Client uses Red Hat's products or services.

1. Background

This Agreement establishes the terms and conditions under which Red Hat will provide Software and Services to Client. "**Software**" means Red Hat Enterprise Linux and other software programs branded by Red Hat and/or its affiliates including all modifications, additions or further developments thereto delivered by Red Hat. "**Red Hat Network**" ("**RHN**") is the collection of services and technology related to software delivery, updates and upgrade, management, and provisioning for systems running Red Hat Enterprise Linux. "**Services**" means RHN, Subscription Services, and any Learning Services (defined below) purchased under this Agreement. "**Subscription Services**" mean fee-bearing subscriptions (generally for a period of one or three years) for a certain scope of support services for the Software. The parties agree that the terms of this Agreement will govern future purchases by Client of Software and Services from Red Hat unless otherwise agreed by the parties in writing.

2. Assistance

Client will provide Red Hat access to the Installed Systems (as defined below) and other Client information, systems, and software ("**Client Information**") as reasonably requested by Red Hat to enable Red Hat to provide the Services. Client understands and agrees that the completeness and accuracy of and extent of access to the Client Information provided to Red Hat may affect Red Hat's ability to provide Services. Client will obtain any third party consents necessary to grant Red Hat access to the Client Information that is subject to proprietary rights of, or controlled by, any third party. Client may, for legitimate security concerns, deny Red Hat certain access to Client Information and the Installed Systems, provided, however, that Red Hat shall be relieved from performing Services which reasonably require such access.

3. Payment

3.1 Fees and Expenses. Fees for the Services (the "**Fees**") are stated in pounds sterling, must be paid in pounds sterling, and are exclusive of out-of-pocket expenses. Client will reimburse Red Hat for reasonable expenses incurred in connection with the performance of Services involving travel. Unless otherwise stated in this Agreement, any renewal of this Agreement will be at the same price per Installed System paid during the initial term. For Subscription Services, Client agrees to pay Red Hat for each Installed System. An "**Installed System**" means a system on which Client installs or executes all or a portion of the Software, which may be, without limitation, a server, work station, virtual machine, blade, node, partition, or engine, as applicable.; provided that for JBoss Software, Installed System is defined in Appendix 5. The parties agree that the terms of this Agreement will govern future purchases by Client of additional units of any or all of the Services listed herein. Unless otherwise agreed by the parties in writing, during the term of this Agreement, such additional units can be purchased and renewed at the rates set forth herein, exclusive of expenses, if any.

3.2 Invoices. If Client is paying by credit card, Client authorizes Red Hat to bill Client's credit card for the Services for the initial term and for the amount due at the time of renewal. If Red Hat has approved Client to be invoiced, Red Hat will invoice Client for the Fees at the time of execution of this Agreement and upon the submission of any future purchase order. Any and all payments made by Client pursuant to this Agreement are non-refundable. Client will make payment within thirty (30) days of the date of the invoice; provided, however, that Fees for Learning Services are due prior to the delivery of such Learning Services. Red Hat reserves the right to suspend or cancel performance of all or part of the Services and/or change its credit terms if actual payment has not been received within sixty (60) days of the invoice date.

3.3 Taxes. All Fees are exclusive of any Taxes. Client will pay to Red Hat 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 Red Hat. "**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), excluding, however, any taxes based solely on the net income of Red Hat. If Client is required under any applicable law or regulation, domestic or foreign, to withhold or deduct any portion of the payments due to Red Hat, then the sum payable to Red Hat will be increased by the amount necessary so that Red Hat receives an amount equal to the sum it would have received had Client made no withholdings or deductions.

4. License and Ownership

4.1 Software. Client will have the license rights to the Software set forth in Appendices 1, 2 and 3, as applicable.

4.2 Freedom to Use Ideas. The ideas, methods, concepts, know-how, structures, techniques, inventions, developments, processes, discoveries, improvements and other information and materials developed in and during the course of this Agreement may be used by either party, without an obligation to account, in any way that party deems appropriate, including by or for itself or its clients or customers, notwithstanding anything to the contrary contained in this Agreement.

4.3 Marks. No right or license, express or implied, is granted hereunder for the use of any of Red Hat, Red Hat affiliate, or Client trade names, service marks or trademarks, including, without limitation, the distribution of the Software utilizing any Red Hat or Red Hat affiliate trademarks.

5. Reporting and Inspection

- 5.1 **Reporting.** Client will promptly notify Red Hat if the number of Installed Systems exceeds the number of Installed Systems for which Client has paid the applicable fee. In its notice, Client will include both the number of additional Installed Systems and the date(s) on which such Installed Systems were put into use. Red Hat will invoice Client for the applicable Services for such Installed Systems on a pro-rata basis and Client will pay for such Services in accordance with this Agreement.
- 5.2 **Inspection.** During the term of this Agreement and for one (1) year thereafter, Red Hat or its designated agent may inspect and review Client's facilities and records in order to verify Client's compliance with this Agreement. Any such inspection and review will take place only during Client's normal business hours and upon no less than ten (10) days prior written notice from Red Hat. Red Hat will give Client written notice of any non-compliance, including the number of underreported Installed Systems, and Client will have fifteen (15) days from the date of such notice to make payment to Red Hat for the applicable Services provided to the underreported Installed Systems. If Client had underreported the number of Installed Systems by more than five percent (5%), Client will also pay Red Hat for the cost of such inspection.

6. Term and Termination

- 6.1 **Term.** The term of this Agreement and the provision of Services hereunder begins on the Effective Date and continues for a period of one (1) year unless a different term is specified by the parties at the time of purchase. Thereafter, the term for Subscription Services (defined in Appendix 1) will renew for successive terms of one (1) year each, unless a different term is agreed to by the parties at the time of renewal, and unless either party gives written notice to the other of its intention not to renew at least sixty (60) days before commencement of the next term. Client must use any other Services purchased during the initial term; if unused, such Services will be forfeited.
- 6.2 **Termination.** If Client or Red Hat materially breaches the terms of this Agreement, and such breach is not cured or remedied within thirty (30) days after written notice of the breach is given to the breaching party, then the other party, by giving written notice of termination to the breaching party, may terminate this Agreement provided, however, that no cure period will be required for a breach of Section 9 hereof. Without prejudice to any other right or remedy of Red Hat, in the event either party terminates this Agreement, Client will pay Red Hat for all Services provided up to the effective date of termination.
- 6.3 **Effect of Termination.** If this Agreement is terminated for any reason, Sections 3, 4, 5.2, 6.3, 8, 9, 10.2, 12 and 13 of this Agreement will survive such termination.

7. Continuing Business

Nothing in this Agreement will be understood to preclude or limit Red Hat from providing software, materials, or services for itself or other clients, irrespective of the possible similarity of such software, materials or services to those which might be delivered to Client.

8. Limitation of Liability and Disclaimer of Damages

- 8.1 **Limitation of Liability.** FOR ALL EVENTS AND CIRCUMSTANCES, RED HAT AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ON ACCOUNT OF PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STATUTE OR OTHERWISE WILL BE LIMITED TO DIRECT DAMAGES AND WILL NOT EXCEED THE GREATER OF FIFTEEN THOUSAND POUNDS STERLING (£15,000) OR THE AMOUNT THAT CLIENT PAID (OR IS PAYABLE) TO RED HAT UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY.
- 8.2 **Disclaimer of Indirect Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT WILL RED HAT OR ITS AFFILIATES BE LIABLE TO CLIENT OR ITS AFFILIATES FOR: ANY CLAIM BASED UPON A THIRD PARTY CLAIM; ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER ARISING IN TORT, CONTRACT, OR OTHERWISE; OR FOR ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT FALLING WITHIN THE FOLLOWING CATEGORIES:
- (A) LOSS OF DATA;
 - (B) LOSS OF PROFITS;
 - (C) LOSS OF SAVINGS;
 - (D) LOSS OR INTERRUPTION OF SERVICE;
 - (E) LOSS OF BUSINESS OR ANTICIPATORY PROFITS;
 - (F) LOSS OF USE OR DOWNTIME; AND
 - (G) LOSS OF OR CORRUPTION TO DATA OR OTHER INFORMATION OR LOSS OR DAMAGE TO SOFTWARE
- EVEN IF RED HAT OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS AND/OR DAMAGE.
- 8.3 **Disclaimer of Direct Damages.** FOR THE AVOIDANCE OF DOUBT, THE TYPES OF LOSS AND/OR DAMAGE SPECIFIED IN SECTION 8.2(A) TO (G) INCLUSIVE SHALL NOT CONSTITUTE DIRECT LOSS FOR THE PURPOSES OF THIS AGREEMENT.

8.4 **No Exclusion or Limitation of Liability.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, RED HAT DOES NOT EXCLUDE OR LIMIT LIABILITY FOR (A) PERSONAL INJURY OR DEATH TO THE EXTENT THAT SUCH INJURY OR DEATH RESULTS FROM THE NEGLIGENCE OR WILLFUL DEFAULT OF RED HAT, ITS AGENTS, SERVANTS, AFFILIATES, OR SUBCONTRACTORS; (B) ANY BREACH OF THE OBLIGATIONS OR WARRANTIES IMPLIED PURSUANT TO SECTION 12 OF THE SALE OF GOODS ACT 1979 OR SECTION 2 OF THE SUPPLY OF GOODS AND SERVICES ACT 1982; AND/OR (C) ANY FRAUDULENT MISREPRESENTATION UPON WHICH THE CLAIMING PARTY CAN BE SHOWN TO HAVE RELIED.

9. Confidentiality

Client and Red Hat agree to maintain the confidentiality of Red Hat's pricing and product roadmap as well as other proprietary information received by the other party that is marked confidential, including non-public technical and business information for a period of two (2) years after the termination of this Agreement. This section shall not apply to any publicly available or independently developed information.

10. Representations and Warranties

10.1 **General Representations and Warranties.** Red Hat represents and warrants that: (a) the Services will be performed in a professional and workmanlike manner by qualified personnel; (b) it has the authority to enter into this Agreement with Client; and (c) to Red Hat's knowledge, the Software does not intentionally include malicious or hidden mechanisms or code for the purpose of damaging or corrupting the Software.

10.2 **Disclaimer of Warranty.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 10, THE SERVICES AND THE SOFTWARE ARE PROVIDED "AS IS" AND WITHOUT ADDITIONAL WARRANTIES OR CONDITIONS OF ANY KIND (EXPRESS OR IMPLIED), INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER CONDITIONS, TERMS, UNDERTAKINGS AND REPRESENTATIONS OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW OR OTHERWISE, ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY RED HAT, ITS AFFILIATES, DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES WILL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN. RED HAT DOES NOT GUARANTEE OR WARRANT THAT THE USE OF THE SERVICES OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

11. Open Source Assurance Program

If any portion of the Software is found to infringe any third party intellectual property rights and Client has complied with all of the terms of this Agreement, then for each Installed System for which Client is current in its subscription fees, Red Hat will, at its expense and option: (i) obtain the rights necessary for Client to continue to use the Software consistent with this Agreement; (ii) modify the Software so that it is non-infringing; or (iii) replace the infringing portion of the Software with non-infringing code. The foregoing will not apply to claims arising from: the combination of the Software with products or services not provided by Red Hat; the modification of the Software pursuant to specifications of Client; the modification of the Software other than as directed by Red Hat; or use of the Software in a manner not permitted or contemplated hereunder.

12. Governing Law/Consent to Jurisdiction

The validity, interpretation and enforcement of this Agreement will be governed by and construed in accordance with the laws of England and Wales without giving effect to the conflicts of laws provisions thereof or the United Nations Convention on Contracts for the International Sale of Goods. Client hereby consents to the exclusive jurisdiction of the courts of England and Wales in London.

13. Miscellaneous

(13.1) Notices. Notices must be in English, in writing, and will be deemed given when delivered by hand or five (5) days after being sent to the respective addresses indicated on the first page hereof or to the facsimile numbers set forth below, using a method that provides for positive confirmation of delivery; provided that any notice from Client to Red Hat includes a copy sent to: Red Hat, Inc., Attention: General Counsel, 1801 Varsity Drive, Raleigh, North Carolina 27606; Facsimile: (919) 754-3704. **(13.2) Assignment.** This Agreement is binding on the parties to this Agreement, and nothing in this Agreement confers upon any other person or entity any right, benefit or remedy of any nature whatsoever, save for the parties' affiliates as expressly provided in this Agreement. This Agreement is assignable by either party only with the other party's prior written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, Red Hat may assign this Agreement to its affiliate, subsidiary or pursuant to a merger or a sale of all or substantially all of such party's assets or stock upon written notice and without the prior approval of Client. **(13.3) Subcontracting.** Red Hat may subcontract Services under this Agreement to third parties or affiliates without the prior approval of Client; provided, however, that (a) subcontractors must agree to keep any proprietary information received from Red Hat or Client confidential, and (b) Red Hat remains responsible to Client for the performance of its obligations hereunder. Client acknowledges and agrees that to provide the Services, it may be necessary for Client Information to be transferred between Red Hat, its affiliates, and/or subcontractors, which may be located worldwide. **(13.4) Independent Contractor.** Red Hat is an independent contractor and nothing in this Agreement will be construed to create an employee relationship between Client (or any Client personnel) and Red Hat (or any Red Hat personnel). Each party will be solely responsible for payment of its personnel including applicable taxes, deductions, or other payments and benefits. **(13.5) Force Majeure.** Except with respect to the payment of Fees owing under this Agreement, neither party will be liable for nonperformance or delays caused by acts of God, wars, riots, strikes, fires, floods, earthquakes, government restrictions, terrorist acts or other causes beyond its reasonable control. **(13.6) Non-solicitation.** Client

agrees not to solicit or hire any personnel of Red Hat with whom Client has had contact in connection with this Agreement; provided that Client may hire an individual employed by Red Hat who, without other solicitation, responds to advertisements or solicitations aimed at the general public. **(13.7) Export Responsibilities.** Red Hat may supply Client with technical data that may be subject to export control restrictions. Red Hat will not be responsible for compliance by Client with applicable export obligations or requirements for such technical data. Client agrees to comply with all applicable export control restrictions. In the event that Client breaches this Section 13.7, Section 5 of Appendix 2, 3 or 6, or any provision referencing these sections, Red Hat may terminate this Agreement and its obligations hereunder without liability to Client. **(13.8) Dispute Resolution.** If Client is not satisfied with the Services provided by Red Hat, Client agrees to give Red Hat a written description of the problem(s) and to make a good faith effort to amicably resolve the problem with Red Hat before commencing any proceeding. Red Hat also agrees to make a good faith effort to amicably resolve any problem with Client before commencing any proceeding. No claim or action, regardless of form, arising out of this Agreement may be brought by either party more than the later of one (1) year after the cause of action has accrued, or one (1) year from the date when the claimant first became aware (or ought reasonably to have become aware) that the cause of action had accrued. **(13.9) Headings.** All headings contained in this Agreement are inserted for identification and convenience, and will not be deemed part of this Agreement for purposes of interpretation. **(13.10) Severability.** If any provision of this Agreement is held invalid or unenforceable for any reason but would be valid and enforceable if appropriately modified, then such provision will apply with the modification necessary to make it valid and enforceable. If such provision cannot be so modified, the parties agree that such invalidity will not affect the validity of the remaining provisions of the Agreement; provided, however, if Sections 3, 8 and 10 cannot be modified to be valid and enforceable, this Agreement will be deemed invalid in its entirety. **(13.11) Waiver.** The delay or failure of either party to exercise any rights hereunder will not constitute or be deemed a waiver or forfeiture of such rights. No waiver will be valid unless in writing and signed by an authorized representative of the party against whom such waiver is sought to be enforced. **(13.12) Complete Agreement.** This Agreement constitutes the exclusive terms and conditions with respect to 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 Client to place orders or otherwise effect transactions hereunder. This Agreement represents the final, complete and exclusive statement of the agreement between the parties with respect to subject matter hereof and all prior written agreements and all prior and contemporaneous oral agreements with respect to the subject matter hereof are merged therein. Any claim relating to the provision of the Services by Red Hat, its affiliates and their personnel will be made against Red Hat alone. **(13.13) Amendment.** This Agreement may not be amended, supplemented or modified except by a written instrument signed by the parties hereto, which instrument makes specific reference to this Agreement. **(13.14) Counterparts and Facsimile Signature.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument. The parties may exchange signature pages by facsimile and such signatures will be effective to bind the parties. **(13.15) Data Protection.** Both parties will duly observe all of their relevant obligations under the Data Protection Act of 1998 (as amended from time to time) which arise in connection with this Agreement and Client hereby consents and will procure that such of its employees, officers and subcontractors, including, without limitation, the Client Contacts (as defined in paragraph 3.4 of Appendix 1) consent to the transfer of any data provided to Red Hat pursuant to this Agreement to any Affiliate from time to time of Red Hat anywhere in the world for the sole purpose of assisting Red Hat in performing its obligations under this Agreement. **(13.16) Third Party Rights.** A person who is not a party to this Agreement has no right to enforce any term of this Agreement save for Red Hat, Inc., which will be entitled to enforce the terms of Appendices 2 and 3 as if it were a party to this Agreement. **(13.17) Time Not of the Essence.** Time will not be of the essence in respect of any of Red Hat's obligations under this Agreement.

Appendix 1 Red Hat Subscription Services

This Appendix describes Subscription Services for Red Hat Enterprise Linux, Red Hat Applications, technical and developer support services and Red Hat Network Services.

1. Red Hat Subscription Services

This Section 1 describes Subscription Services offered by Red Hat. Red Hat will provide only those Subscription Services purchased by Client. The Subscription Services are intended for use only by Client (including through its contractors and agents) and for the benefit of the Client and only for the Installed Systems for which Client has purchased Subscription Service. Client may not use one subscription for Services for more than one Installed System. Any unauthorized use of the Services will be deemed to be a material breach of this Agreement.

1.1 Red Hat Enterprise Linux

For each Installed System, Client will receive access to (a) the applicable Software via Red Hat Network, (b) the applicable Software updates and upgrades, when and if available, via Red Hat Network as described in Section 1.3.2, and (c) the applicable level of production support services described in Section 3.2 herein.

The use of Red Hat Enterprise Linux software is subject to the end user license agreement set forth in Appendix 2. The parties agree that Section 7 of Appendix 2 will take precedence over any conflicting terms in this Agreement. Red Hat only provides Services for: Red Hat Enterprise Linux ES using a maximum of two-way SMP hardware and sixteen (16) gigabytes of RAM; Red Hat Enterprise Linux WS using a maximum of two-way SMP hardware; and Red Hat Desktop using a maximum of one-way SMP hardware and four (4) gigabytes of RAM.

1.2 Red Hat Applications

The Red Hat Applications mean the Software provided under this Agreement, other than Red Hat Enterprise Linux and JBoss Software. With respect to the Red Hat Applications, for each Installed System, Client will receive access to (a) the applicable Software via Red Hat Network, (b) the applicable Software updates and upgrades, when and if available, via Red Hat Network as described in Section 1.3.2, and (c) the same level of production support services as the underlying Red Hat Enterprise Linux subscription except for Red Hat Application Stack, which receives the applicable level of production and developer support services described in Section 3.2 herein. The use of Red Hat Applications software is subject to the end user license agreement set forth in Appendix 2, except for Red Hat Directory Server and Red Hat Certificate System, which are subject to the end user license agreement set forth in Appendix 3, and Red Hat Application Stack, which is subject to the end user license agreements set forth in Appendices 2 and 6. The Red Hat Applications are not supported when installed on Red Hat Desktop. The parties agree that Section 7 of Appendices 2 and 3 will take precedence over any conflicting terms in the Agreement. Red Hat Cluster Suite is supported when installed on Red Hat Enterprise Linux AS and/or ES. Red Hat Application Stack is supported when used on systems with up to 4 CPUs (for Standard and Premium) and up to 2 CPUs (for Basic).

1.3 Service Subscriptions

1.3.1 Technical and Developer Services

Availability: Business hours and days

Response Commitment: One (1) business hour

On-Site Coverage: Two (2) on-site technical reviews per year by Red Hat at Client's site.

Scope of Coverage:

- Centralized management of support services by a team of Red Hat support engineers with knowledge of Client's technical infrastructure.
- Identification of issues related to the deployment of Red Hat Enterprise Linux (beta testing, bug/feature escalation/resolution).
- Access to current information relating to Red Hat's technology and development plans.
- Red Hat liaison for Client into Red Hat's product engineering team and the open source community.
- Subscription to Red Hat's monthly Technical Account Management newsletter.

B. Premium Developer Support Services

Availability: Business hours and days

Response Commitment: One (1) business day

Designated Contacts: Two (2)

Scope of Coverage:

- Provides Client a primary point of contact at Red Hat for up to twenty-five (25) of Client's developers.
- Includes Linux development advice on the following topics:
 - Recommendations and advice on porting applications to Red Hat Enterprise Linux.
 - Advice on the use of system calls.
 - Advice on the use of libraries distributed with Red Hat Enterprise Linux, such as glibc, libstdc++.
 - Guidance on the use of standard Linux programming practices.
 - Recommendations on Linux programming methodology.
- Includes GNU-based programming tools assistance on the following topics:
 - Use of and options for the GNU-based development tools distributed with Red Hat Enterprise Linux: gcc, g++, gas.
 - Use of binutils tools such as ld, objdump.
 - Use of gdb to debug applications.
- Use of other development tools and utilities distributed with Red Hat Enterprise Linux such as: make and Makefile creation,

automake, autoconf, and CVS (Concurrent Versions Systems).

1.3.2 Red Hat Network Services

Red Hat Network ("RHN") means the Red Hat hosted web site that contains the Software images, updates, upgrades, enhancements, additions, corrections and modifications that are made available to clients that have purchased Subscription Services. RHN Services include access to RHN and (if purchased by Client) additional modules (e.g., management and provisioning) and the Optional RHN Services described below.

1.3.3 Optional RHN Services

RHN Proxy and Satellite Services Subscriptions

Red Hat may provide certain software code (that is not included with the Software) for use by Client in connection with the RHN Services, referred to as RHN Code as defined below. Subject to Client's compliance with the terms and conditions of this Agreement, Red Hat grants Client a non-exclusive, non-transferable, revocable license to use the RHN Code solely for purposes of using the RHN Proxy Server and/or Satellite Server service. Client may not: (a) modify, copy, or create any derivative works of the RHN Code (except to the extent permitted by applicable law); (b) redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer rights to the RHN Code; (c) use the RHN Code in a timesharing or service bureau arrangement; or (d) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the RHN Code. Upon termination of the subscription period for the applicable RHN service, Client will promptly destroy all copies of the RHN Code in its possession. The RHN Code (and any media containing the RHN Code) is copyrighted by and is the confidential information of Red Hat, and Client will not use or disclose any information regarding the RHN Code, except as permitted by the Agreement. The RHN Code is also subject to certain export control restrictions that are described in Section 5 of Appendix 2 and Client agrees to comply with those restrictions in its use of the RHN Code. The term "**RHN Code**" means the software code installed on a designated server owned or leased by Client, approved by Red Hat, and utilized by Red Hat Network for the purpose of providing Client access to Red Hat Network during the term of this Agreement. For RHN Satellite Server with an embedded database, Client agrees to comply with the terms set forth at www.redhat.com/licenses/satellite_embedded.html.

RHN Proxy Server Subscription

Software Updates/Maintenance: Each RHN Proxy Server subscription includes access to the applicable updates and upgrades for the RHN Proxy Server. Each subscription also includes (1) subscription to Red Hat Enterprise Linux AS Premium.

Production Support Services: Premium Support Services as described in Section 3.2 herein.

RHN Satellite Server Subscription

Software Updates/Maintenance: Each RHN Satellite Server subscription includes access to the applicable updates and upgrades to the RHN Satellite Server. Each subscription also includes (1) subscription to Red Hat Enterprise Linux AS Premium.

Production Support Services: Premium Support Services as described in Section 3.2 herein.

Red Hat Network Provisioning Subscription (without Satellite subscription)

If Client subscribes to RHN Provisioning and does not subscribe to RHN Satellite Server, then the following terms apply to that subscription. Client agrees to comply with the quota limitations established by Red Hat from time to time. Client warrants that the software and materials for which it uses the RHN Provisioning Service ("**Materials**") and Client's use of RHN Provisioning with respect to such Materials do not violate any applicable laws or infringe on the rights of any third party and Client will indemnify, defend and hold Red Hat harmless with respect to any claims arising out of or related to the Materials. Client agrees to maintain a backup copy of all Materials. Red Hat will use commercially reasonable efforts to protect the confidentiality of the Materials while they are in Red Hat's possession.

1.3.4 Red Hat Command Center Subscription

Red Hat Command Center Subscription consists of (i) access to Red Hat Command Center Portal (the web-based information portal located at command.nocpulse.com); (ii) Notification Service (automated alerts sent by Red Hat Command Center when pre-defined thresholds for warning or critical values are surpassed); and (iii) if purchased by Client, Reporting Service (optional reporting feature that allows Client to run reports on current and historical monitoring data). Any unauthorized use of the Red Hat Command Center Services will be deemed to be a material breach of this Agreement. Client will identify a technical contact for Red Hat Command Center related communications including the Notification Service. In order to provide the Red Hat Command Center Subscription Service, Red Hat will need to install "Scout(s)" (consisting of computer hardware and software that is not included in the Software) on Client's premises or those of its co-location facility. Client will provide reasonable access for Red Hat authorized personnel to install and maintain Scout(s). Client is responsible for theft, loss, or damage to Scout(s) at all times while such Scout(s) are on Client premises and/or those of its co-location facility, and will keep the Scout(s) operational at its own expense. Client will promptly notify Red Hat if any Scout is lost, damaged, stolen, or otherwise cannot be returned to Red Hat, and Client will be charged a replacement fee equal to the Scout installation fee.

Subject to Client's compliance with the terms and conditions of this Agreement, Red Hat grants Client a non-exclusive, non-transferable, revocable license to use the Scout(s) solely for the purpose of using the Red Hat Command Center Service. Client may not (a) modify, copy or create any derivative works of the Scout (except to the extent permitted by applicable law); (b) redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer rights to the Scout; (c) use the Scout in a timesharing or service bureau arrangement; or (d) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Scout. Red Hat will retain all right, title and interest in the Scout(s) under all circumstances. Client will not remove, relocate, reconfigure, or otherwise tamper with any Scout without the prior written approval of Red Hat. Upon termination of the subscription period for the applicable Red Hat Command Center Service, Client will promptly return all Scouts to Red Hat.

In addition to the Fees, Client will pay Red Hat any additional purchases of units of any or all of the Services listed above at the

agreed upon rates based on the Average Units of the Services over a monthly period as reported via the Red Hat Command Center portal (command.nocpulse.com). The **"Average Units"** means the actual number of units consumed at one point in time each day, totaling the number of units for the month and dividing the total number of units by the number of days in the month.

SCOUTS ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

2. Production Support Services

In order to access and utilize the Services described in Section 1, Client will be required to provide Red Hat with its Client number, RHN machine name or RHN system ID at the time of initiating the Services. Red Hat will provide, and Client will use Services only for (a) Supported Hardware and Platforms, and (b) for those Installed Systems for which Client has subscribed and paid under this Agreement. The term **"Supported Hardware or Platform"** means a hardware system and components that function with the Software and are listed at <http://hardware.redhat.com>. Red Hat may, at its discretion, decline to provide Services for the packages included in the Software that are designated as "kernel-unsupported." Red Hat may, at its discretion, decline to provide Services for Software that has been modified or changed by Client in any way, except as expressly directed by Red Hat.

3. Service Level Information for the Subscription Services

3.1 Scope of Coverage

The scope of coverage for the Subscription Services described in Sections 1.1 and 1.2 is set forth at <https://www.redhat.com/support/service/sla> and <https://www.redhat.com/security/updates/errata/>.

3.2 Response Guidelines

Subscription Type	Scope of Coverage for Production Support	Scope of Coverage for Developer Support	Severity Level*	Initial Response	Status Updates	Level of Effort
Premium Support Services	Support for an unlimited number of incidents arising from the production use of the Software for each Installed System with an active subscription.	Support for an unlimited number of incidents arising from the development use of the Software for each Installed System with an active subscription.	1	1 hour for telephone or web support request	Every 2 hours unless otherwise	24x7 continuous effort
			2	1 business day for telephone or web support request	Every 3 business days unless	As mutually agreed
			3	2 business days	As necessary	As
			4	4 business days	As necessary	As mutually agreed
Standard Support Services	Same as Premium Support Services	Same as Premium Support Services	1	4 business hours for telephone, 2 business days by web support requests	Every 2 hours during business hours/days unless	Continuous effort during business
			2, 3, 4	Same as Premium Support Services	Same as Premium Support Services	Same as Premium Support Services
Basic Support Services	Support for an unlimited number of incidents relating to installation and basic configuration of the Software for each Installed System with an active subscription.	Support for an unlimited number of incidents relating to development use of the Software for each Installed System with an active subscription	1, 2, 3 and 4	2 business days for web support request	As necessary	As mutually agreed

*As defined in Section 3.3 below.

Red Hat will make commercially reasonable efforts to comply with all response guidelines.

3.3 Severity Level Definitions

Severity Levels	Production Support Severity Definitions	Developer Support Severity Definitions
1	Catastrophic production problem which severely impacts Client's production systems, or in which Client's production systems are down or not functioning; loss of production data and no procedural work around exists. Severity 1 problems also include security breaches.	Any critical issue which causes a development project to completely cease, or prevents a critical function or component from being used and no work around exists. Severity 1 problems also include security breaches.
2	High-impact problem in which Client's operation is disrupted but there is capacity to remain productive and maintain necessary business-level operations.	An issue that either requires answers to time sensitive questions or is causing development on a critical subsystem to cease; project development is able to continue, but under restricted conditions.
3	Medium-to-low impact problem which involves partial non-critical functionality loss impairing some operations but allowing Client to continue to function. This includes documentation errors.	A minor problem, question or important feature request that does not have a major impact on project development.
4	General usage questions, recommendations for future product enhancements or modifications. There is no impact on the quality, performance or functionality of the Software.	A minor condition or documentation error that has no significant effect on Client's development efforts.

3.4 Client Contacts

Client will appoint up to the number of individual contacts (“**Client Contacts**”) specified below. Red Hat will provide Services to Client solely by communicating with the Client Contacts. Client will make commercially reasonable efforts to maintain consistent Client Contacts for the term of this Agreement. Client must notify Red Hat of any change in Client Contacts in writing. Client will allow one calendar week for Red Hat to process any changes in Client Contacts. Client may not use a Client Contact to act as a mere forwarding service for other personnel. Each Client Contact must have read and/or write access to all necessary files and have English language communication skills and the relevant technical knowledge necessary to assist Red Hat in performing the Support Services contemplated under this Agreement. The Client Contacts may not use Services to benefit any person or entity other than Client.

Number of Installed Systems	Number of Client Contacts
1 to 25	2
26 to 50	3
51 to 100	4
101 to 250	6
251 to 500	8
501 to 1000	12

Appendix 2

LICENSE AGREEMENT AND LIMITED PRODUCT WARRANTY RED HAT® ENTERPRISE LINUX® AND RED HAT® APPLICATIONS

This agreement governs the use of the Software and any updates to the Software, regardless of the delivery mechanism. The Software is a collective work under U.S. Copyright Law. Subject to the following terms, Red Hat, Inc. ("Red Hat") grants to the user ("Client") a license to this collective work pursuant to the GNU General Public License v2.

1. The Software. Red Hat Enterprise Linux and Red Hat Applications (the "**Software**") are either a modular operating system or application consisting of hundreds of software components. The end user license agreement for each component is located in the component's source code. With the exception of certain image files identified in Section 2 below, the license terms for the components permit Client to copy, modify, and redistribute the component, in both source code and binary code forms. This agreement does not limit Client's rights under, or grant Client rights that supersede, the license terms of any particular component.

2. Intellectual Property Rights. The Software and each of its components, including the source code, documentation, appearance, structure and organization are owned by Red Hat and others and are protected under copyright and other laws. Title to the Software and any component, or to any copy, modification, or merged portion shall remain with the aforementioned, subject to the applicable license. The "Red Hat" trademark and the "Shadowman" logo are registered trademarks of Red Hat in the U.S. and other countries. This agreement does not permit Client to distribute the Software using Red Hat's trademarks. Client should read the information found at <http://www.redhat.com/about/corporate/trademark/> before distributing a copy of the Software, regardless of whether it has been modified. If Client makes a commercial redistribution of the Software, unless a separate agreement with Red Hat is executed or other permission granted, then Client must modify any files identified as "REDHAT-LOGOS" and "anaconda-images" to remove all images containing the "Red Hat" trademark or the "Shadowman" logo. Merely deleting these files may corrupt the Software.

3. Limited Warranty. Except as specifically stated in this Paragraph 3 or a license for a particular component, **to the maximum extent permitted under applicable law, the Software and the components are provided and licensed "as is" without warranty of any kind, expressed or implied, including the implied warranties of merchantability, non-infringement or fitness for a particular purpose.** Red Hat warrants that the media on which the Software is furnished will be free from defects in materials and manufacture under normal use for a period of 30 days from the date of delivery to Client. Red Hat does not warrant that the functions contained in the Software will meet Client's requirements or that the operation of the Software will be entirely error free or appear precisely as described in the accompanying documentation. **This warranty extends only to the party that purchases the Services pertaining to the Software from Red Hat or a Red Hat authorized distributor.**

4. Limitation of Remedies and Liability. To the maximum extent permitted by applicable law, the remedies described below are accepted by Client as its only remedies. Red Hat's entire liability, and Client's exclusive remedies, shall be: If the Software media is defective, Client may return it within 30 days of delivery along with a copy of Client's payment receipt and Red Hat, at its option, will replace it or refund the money paid by Client for the Software. **To the maximum extent permitted by applicable law, Red Hat or any Red Hat authorized dealer will not be liable to Client for any incidental or consequential damages, including lost profits or lost savings arising out of the use or inability to use the Software, even if Red Hat or such dealer has been advised of the possibility of such damages. In no event shall Red Hat's liability under this agreement exceed the amount that Client paid to Red Hat under this Agreement during the twelve months preceding the action.**

5. Export Control. As required by U.S. law, Client represents and warrants that it: (a) understands that the Software is subject to export controls under the U.S. Commerce Department's Export Administration Regulations ("EAR"); (b) is not located in a prohibited destination country under the EAR or U.S. sanctions regulations (currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria); (c) will not export, re-export, or transfer the Software to any prohibited destination, entity, or individual without the necessary export license(s) or authorization(s) from the U.S. Government; (d) will not use or transfer the Software for use in any sensitive nuclear, chemical or biological weapons, or missile technology end-uses unless authorized by the U.S. Government by regulation or specific license; (e) understands and agrees that if it is in the United States and exports or transfers the Software to eligible end users, it will, as required by EAR Section 740.17(e), submit semi-annual reports to the Commerce Department's Bureau of Industry & Security (BIS), which include the name and address (including country) of each transferee; and (f) understands that countries other than the United States may restrict the import, use, or export of encryption products and that it shall be solely responsible for compliance with any such import, use, or export restrictions.

6. Third Party Programs. Red Hat may distribute third party software programs with the Software that are not part of the Software. These third party programs are subject to their own license terms. The license terms either accompany the programs or can be viewed at <http://www.redhat.com/licenses/>. If Client does not agree to abide by the applicable license terms for such programs, then Client may not install them. If Client wishes to install the programs on more than one system or transfer the programs to another party, then Client must contact the licensor of the programs.

7. General. If any provision of this agreement is held to be unenforceable, that shall not affect the enforceability of the remaining provisions. This agreement shall be governed by the laws of the State of North Carolina and of the United States, without regard to any conflict of laws provisions, except that the United Nations Convention on the International Sale of Goods shall not apply.

Copyright © 2003 Red Hat, Inc. All rights reserved. "Red Hat" and the Red Hat "Shadowman" logo are registered trademarks of Red Hat, Inc. "Linux" is a registered trademark of Linus Torvalds. All other trademarks are the property of their respective owners.

Appendix 3

LICENSE AGREEMENT AND LIMITED PRODUCT WARRANTY RED HAT® DIRECTORY SERVER AND RED HAT® CERTIFICATE SYSTEM

This agreement governs the use of Red Hat Directory Server, Red Hat Certificate System, Administration Server and Red Hat Management Console (collectively, the “**Software**”) and any updates to the Software, regardless of the delivery mechanism.

1. Red Hat Directory Server

1.1 License Grant. Red Hat Directory Server (“**RHDS**”) is a modular application consisting of hundreds of software components and is a collective work under U.S. Copyright Law. Subject to the following terms, Red Hat, Inc. (“**Red Hat**”) grants to the user (“**Client**”) a license to this collective work pursuant to the GNU General Public License v.2. Please note that Administration Server and Red Hat Management Console, which are binary-only code used to configure and administer RHDS, are subject to the license terms in Section 2. The end user license agreement for each component of RHDS is located in the component's source code. With the exception of certain image files identified in Section 1.3 below, the license terms for the components permit Client to copy, modify, and redistribute the component, in both source code and binary code forms. This agreement does not limit Client's rights under, or grant Client rights that supersede, the license terms of any particular component.

1.2 License Exception. In addition, as a special exception, Red Hat gives Client the additional right to link the code of RHDS with code not covered under the GNU General Public License (“**Non-GPL Code**”) and to distribute linked combinations including the two, subject to the limitations in this paragraph. Non-GPL Code permitted under this exception must only link to the code of RHDS through those well defined interfaces identified in that file named EXCEPTION in the source code files for RHDS (the “**Approved Interfaces**”). The files of Non-GPL Code may instantiate templates or use macros or inline functions from the Approved Interfaces without causing the resulting work to be covered by the GNU General Public License. Only Red Hat may make changes or additions to the list of Approved Interfaces. Client must comply with the GNU General Public License in all respects for all of the RHDS code and other code used in conjunction with RHDS except the Non-GPL Code covered by this exception. If Client modifies RHDS, Client may extend this exception to its version of RHDS, but Client is not obligated to do so. If Client does not wish to provide this exception without modification, Client must delete this exception statement from Client's version of RHDS and license RHDS solely under the GPL without exception.

1.3 Intellectual Property Rights. RHDS and each of its components, including the source code, documentation, appearance, structure and organization are owned by Red Hat and others and are protected under copyright and other laws. Title to RHDS and any component, or to any copy, modification, or merged portion shall remain with the aforementioned, subject to the applicable license. The “Red Hat” trademark and the “Shadowman” logo are registered trademarks of Red Hat in the U.S. and other countries. This agreement does not permit Client to distribute RHDS using Red Hat's trademarks. Client should read the information found at <http://www.redhat.com/about/corporate/trademark/> before distributing a copy of RHDS, regardless of whether it has been modified. If Client makes a commercial redistribution of RHDS, unless a separate agreement with Red Hat is executed or other permission granted, then Client must modify any files identified as “REDHAT-LOGOS” and “anaconda-images” to remove all images containing the “Red Hat” trademark or the “Shadowman” logo. Merely deleting these files may corrupt RHDS.

2. Red Hat Certificate System, Administration Server, and Red Hat Management Console

2.1 License Grant. Subject to the provisions of this Section 2.1, Red Hat hereby grants Client a non-exclusive, non-transferable, worldwide, perpetual, fully paid right (without the right to sublicense) to use, reproduce and distribute Red Hat Certificate System (“**RHCS**”), Administration Server (“**Admin Server**”), and Red Hat Management Console (“**Console**”) in executable, machine-readable form. Client must reproduce all copyright and other proprietary notices on such copies. Client may only reproduce and distribute RHCS, Admin Server or Console to another party if the other party agrees in writing to be obligated by the terms and conditions of this Section 2.1. Except as provided in this Section 2.1, Client may not modify, copy, transfer or otherwise use RHCS, Admin Server, or Console, and all licenses granted hereunder are automatically terminated if Client does so.

2.2 Change in Licensing. It is Red Hat's intent to change the terms of the license granted in this Agreement to those of an open source license. If such change is generally announced to the public, Client will have the option to elect to have RHCS, Admin Server and Console be governed by the terms of such open source license. If Client does not make such election, the terms of this Agreement will continue to govern Client's use of the RHCS, Admin Server and Console.

3. Limited Warranty. Except as specifically stated in this Section 3 or a license for a particular component, **to the maximum extent permitted under applicable law, the Software and the components are provided and licensed “as is” without warranty of any kind, expressed or implied, including the implied warranties of merchantability, non-infringement or fitness for a particular purpose.** Red Hat warrants that the media on which the Software is furnished will be free from defects in materials and manufacture under normal use for a period of 30 days from the date of delivery to Client. Red Hat does not warrant that the functions contained in the Software will meet Client's requirements or that the operation of the Software will be entirely error free or appear precisely as described in the accompanying documentation. **This warranty extends only to the party that purchases the Services pertaining to the Software from Red Hat or a Red Hat authorized distributor.**

4. Limitation of Remedies and Liability. To the maximum extent permitted by applicable law, the remedies described below are accepted by Client as its only remedies. Red Hat's entire liability, and Client's exclusive remedies, shall be: If the Software media is defective, Client may return it within 30 days of delivery along with a copy of Client's payment receipt and Red Hat, at its option, will replace it or refund the money paid by Client for the Software. **To the maximum extent permitted by applicable law, Red Hat or any Red Hat authorized dealer will not be liable to Client for any incidental or consequential damages, including lost profits or lost savings arising out of the use or inability to use the Software, even if Red Hat or such dealer has been advised of the possibility of such damages. In no event shall Red Hat's liability under this agreement exceed the amount that Client paid to Red Hat under this Agreement during the twelve months preceding the action.**

5. Export Control. As required by U.S. law, Client represents and warrants that it: (a) understands that the Software is subject to export controls under the U.S. Commerce Department's Export Administration Regulations ("EAR"); (b) is not located in a prohibited destination country under the EAR or U.S. sanctions regulations (currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria); (c) will not export, re-export, or transfer the Software to any prohibited destination, entity, or individual without the necessary export license(s) or authorizations(s) from the U.S. Government; (d) will not use or transfer the Software for use in any sensitive nuclear, chemical or biological weapons, or missile technology end-uses unless authorized by the U.S. Government by regulation or specific license; (e) understands and agrees that if it is in the United States and exports or transfers the Software to eligible end users, it will, as required by EAR Section 740.17(e), submit semi-annual reports to the Commerce Department's Bureau of Industry & Security (BIS), which include the name and address (including country) of each transferee; and (f) understands that countries other than the United States may restrict the import, use, or export of encryption products and that it shall be solely responsible for compliance with any such import, use, or export restrictions.

6. Third Party Programs. Red Hat may distribute third party software programs with the Software that are not part of the Software. These third party programs are subject to their own license terms. The license terms either accompany the programs or can be viewed at <http://www.redhat.com/licenses/>. If Client does not agree to abide by the applicable license terms for such programs, then Client may not install them. If Client wishes to install the programs on more than one system or transfer the programs to another party, then Client must contact the licensor of the programs.

7. General. If any provision of this agreement is held to be unenforceable, that shall not affect the enforceability of the remaining provisions. This agreement shall be governed by the laws of the State of North Carolina and of the United States, without regard to any conflict of laws provisions, except that the United Nations Convention on the International Sale of Goods shall not apply.

Appendix 4 Learning Services

The following terms are applicable to any Learning Services that Client purchases:

1. **“Learning Services”** means Red Hat’s training courses purchased under this Agreement, including Red Hat’s publicly available courses (**“Open Enrollment Courses”**), courses provided at a site designated by Client (**“On-Site Courses”**), and Red Hat’s training units or JCredits (**“Training Units”**). Learning Services, offerings, scheduling, capacity limitations, and availability are subject to change from time to time, without notice. All Learning Services must be used within one (1) year from the date of purchase or will be forfeited.
2. **Payment.** All Fees for Learning Services are due and payable prior to the delivery of such Learning Services. Unless otherwise specified in the Purchase Summary, instructor travel and expenses are included in the Fees for On-Site Courses.
3. **Equipment and Facilities.** For Open Enrollment Courses, Red Hat agrees to provide appropriate training facilities and hardware, and Client will be liable for any loss or destruction of such equipment and hardware used in connection with the Learning Services. For On-Site Courses, Client will supply facility and equipment for on-site training with one workstation per student and instructor and one workstation for testing.
4. **Client Responsibilities.** Client is responsible for assessing the participants’ suitability for the Learning Services and enrollment in the appropriate course(s). Client is responsible for its participants’ attendance at scheduled courses. Participants may be required to enter into individual training agreements that are applicable to the Learning Services. Except as otherwise specified in this Agreement, the Learning Services are provided subject to Red Hat’s standard policies, terms and conditions as posted on redhat.com from time to time, and all such policies, terms and conditions are hereby incorporated herein.
5. **Rights to Training Materials.** All training products, materials, methodologies, software, or processes provided in connection with the Learning Services and developed during the performance of the Learning Services (collectively, the **“Training IP”**) are the sole property of Red Hat and are copyrighted by Red Hat unless otherwise indicated thereon. Training IP is provided solely for the use of the participants during the provision of the Learning Services and will not be copied or transferred without the prior written consent of Red Hat. Training IP will be deemed to be Red Hat’s confidential and proprietary information.
6. **Delivery Date and Cancellation.** On-Site Courses are available with four (4) weeks advance notice from Client. Unless otherwise agreed in writing, On-Site Courses are restricted to a maximum of 16 students per class. Client agrees to take delivery of the Learning Services on the date(s) reserved. Any discount is contingent on delivery of the Learning Services on such date(s). If Client cancels the delivery of an On-Site Course Red Hat will work with Client to reschedule the Learning Services. For Open Enrollment Courses, rescheduling is permitted up to the first day of the class.
7. **Training Units.** Training Units may be redeemed solely for training seats in Open Enrollment Courses and JCredits may be redeemed solely for training seats in Open Enrollment Courses or On-Site Courses sponsored by Red Hat at a Red Hat training facility during the term of this Agreement. Training Units and JCredits are non-refundable and may not be redeemed for cash or credit. Red Hat has sole discretion regarding where and when the Training Units and JCredits can be redeemed and they may not be redeemed or applied toward Red Hat eLearning or On-Site Courses. Training Units and JCredits cannot be pro-rated or combined with any other discount, special offer or coupon.



Appendix 5 JBoss Subscriptions

This Appendix describes Subscription Services for JBoss Enterprise Middleware Suite and JBoss Operations Network. In the event of a conflict, inconsistency or difference between this Appendix and the Agreement, the terms of this Appendix control notwithstanding anything to the contrary in the Agreement.

1.1 JBoss Subscription Services

This Section 1 describes Subscription Services offered by Red Hat. Red Hat will provide only those Subscription Services purchased by Client. The Subscription Services are intended for use only for use by Client (including through its contractors and agents) and for the benefit of the Client and only for the Installed Systems for which Client has purchased a Subscription Service. Client may not use one subscription for Services for more than one Installed System. Any unauthorized use of the Services will be deemed to be a material breach of this Agreement.

1.1.1 JBoss Enterprise Middleware Suite (JEMS) Subscriptions

For each Installed System, Client will receive access to (a) the applicable JBoss Software via the support portal, (b) the applicable Software updates and upgrades, when and if available, via the support portal, and (c) the applicable level of support services described in Section 3.2 herein. Red Hat only provides production support Services for generally available Software and provides developer support Services for Software before general availability.

1.1.2 JBoss Operations Network (ON) Services

JBoss ON is an integrated management platform for the JBoss Software. JBoss ON Services may include, if purchased by Client, management and monitoring capability.

1.1.3 JBoss Operations Network Subscriptions

Red Hat may provide certain software code (that is not included within the Software) for use by Client in connection with the JBoss ON Services, referred to as ON Code as defined below. Subject to Client's compliance with the terms and conditions of this Agreement, Red Hat grants Client a non-exclusive, non-transferable, revocable license to use the ON Code solely for purposes of using the Services. Client may not: (a) modify, copy, or create any derivative works of the ON Code (except to the extent permitted by applicable law); (b) decompile, disassemble or reverse engineer the ON Code; (c) redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer rights to the ON Code; (d) use the ON Code in a timesharing or service bureau arrangement; or (e) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the ON Code. Upon termination of the subscription period for the applicable JBoss Subscription Service, Client will promptly destroy all copies of the ON Code in its possession. The ON Code (and any media containing the ON Code) is copyrighted by and is the confidential information of Red Hat, and Client will not use or disclose any information regarding the ON Code, except as permitted by the Agreement. The ON Code is also subject to certain export restrictions that are described in Section 5 of Appendix 9 and Client agrees to comply with those restrictions in its use of the ON Code. The term "**ON Code**" means the software code installed on a designated server or client owned or leased by Client, approved by Red Hat, and utilized by JBoss ON for the purpose of providing Client access to JBoss ON during the term of this Agreement.

1.4 Installed Systems

For purposes of the Subscription Services described in this Appendix, the term "**Installed System**" means a group of CPUs (e.g., up to 64 or up to 256) for which Client is receiving Services. "**CPU**" means a central processing unit or other integrated circuit that executes the instructions provided by the Software through a single processor core. The term CPU includes reduced instruction processors, embedded processors, or dedicated JAVA coprocessors. Where an integrated circuit has multiple cores, every two cores shall be counted as a single CPU.

2. Support Services

Support Services for JBoss Software are described in Section 3 below. Red Hat will provide, and Client will use Services only for those Installed Systems for which Client has subscribed and paid under this Agreement. Client will provide Red Hat with functioning test code which (a) reproduces and isolates the error; (b) has extraneous comments and code removed; (c) is fully self-contained and automated, and (d) demonstrates the precise error reported. If Client cannot provide test code which reproduces the error, Red Hat may be unable to resolve the error, but will be available to work with Client to assist in the development of a test case. Red Hat may, at its discretion, decline to provide Services for Software that has been modified or changed by Client in any way, except as expressly directed by Red Hat. On-site Services are available at a rate of \$300/hour, plus expenses.

3. Service Level Information for the Subscription Services

3.1 Scope of Coverage

The scope of coverage for the Subscription Services for JBoss Software is as follows: (a) general assistance regarding the installation of the Software; and (b) general assistance with the basic technical configuration of the Software to operate in Client's environment. Subscription Services do not include the following: (i) a failure of hardware, equipment or programs with which the Software operates; (ii) use of Software that is not part of the CVS repository or any code that has a two-letter extension after the version number (e.g., 3.2.1 (br)); (iii) any errors arising from anything other than the Software, such as databases, web-servers or hardware; (iv) Client's failure to comply with operating instructions contained in the documentation; (v) installation, configuration, management and operation of Client's applications; or (vi) APIs, interfaces or data formats other than those included with the Software. Red Hat will offer Subscription Services for the current release and one prior release of the Software, but in no event will a release be supported for less than two (2) years.

3.2 Response Guidelines

Subscription Type	Severity Level	Initial Target Response	Level of Effort
Enterprise Support Services	1	1 hour for telephone support request, 2 hours for web support request	24x7 continuous effort until interim fix
	2	2 hours	As mutually agreed
	3	4 business hours	As mutually agreed
	4	2 business days	As mutually agreed
Platinum Support Services	1	1 hour for telephone support request, 2 hours for web support request	24x7 continuous effort until interim fix
	2	2 hours	As mutually agreed
	3	4 business hours	As mutually agreed
	4	2 business days	As mutually agreed
Gold Support Services	1	4 business hours	Continuous effort during business hours/days until interim fix
	2	4 business hours	As mutually agreed
	3	1 business day	As mutually agreed
	4	2 business days	As mutually agreed
Silver Support Services	1, 2, 3 and 4	2 business days	As mutually agreed

The response guidelines for Developer Assist is 2 business days for all subscription types. Red Hat will make commercially reasonable efforts to comply with all response guidelines.

3.3 Severity Level Definitions

Severity Level	Production Support Severity Definitions	Developer Support Severity Definitions
1	Catastrophic production problem which severely impacts Client's production systems, or in which Client's production systems are down or not functioning; loss of production data and no procedural work around exists. Severity 1 problems also include security breaches.	
2	High-impact problem in which Client's operation is disrupted but there is capacity to remain productive and maintain necessary business-level operations.	Any condition which makes the use or continued use of any one or more functions of the Software difficult in development, has a significant impact on the progress of software projects, and cannot be reasonably circumvented or avoided on a temporary basis without the expenditure of significant time or effort.
3	Medium-to-low impact problem which involves partial non-critical functionality loss impairing some operations but allowing Client to continue to function.	
4	General usage questions, recommendations for future product enhancements or modifications. There is no impact on the quality, performance or functionality of the Software.	General queries related to usage and/or implementation of the Software which does not qualify as a Severity 2 problem.

3.4 Client Contacts

Client will appoint up to the number of individual contacts ("Client Contacts") specified below. Red Hat will provide Services to Client solely by communicating with the Client Contacts. Client will make commercially reasonable efforts to maintain consistent Client Contacts for the term of this Agreement. Client must notify Red Hat of any change in Client Contacts in writing. Client will allow one calendar week for Red Hat to process any changes in Client Contacts. Client may not use a Client Contact to act as a mere forwarding service for other personnel. Each Client Contact must have read and/or write access to all necessary files and have English language communication skills and the relevant technical knowledge necessary to assist Red Hat in performing the Support Services contemplated under this Agreement. The Client Contacts may not use Services to benefit any person or entity other than Client.

Level of Service	Number of Client Contacts per CPU Band					
	Up to 32	Up to 64	Up to 128	Up to 256	Up to 500	Increments of 250 above 500
Silver	1	1	1	1	1	1
Gold	2	2	3	4	6	2
Platinum	2	2	3	4	6	2
Enterprise	6 enterprise, 6 operations, 12 developer					

Appendix 6

LICENSE AGREEMENT JBoss® ENTERPRISE MIDDLEWARE SUITE™

This License Agreement governs the use of the Software Packages and any updates to the Software Packages, regardless of the delivery mechanism. Each Software Package is a collective work under U.S. Copyright Law. Subject to the following terms, Red Hat, Inc. ("Red Hat") grants to the user ("Client") a license to the applicable collective work(s) pursuant to the GNU Lesser General Public License v. 2.1 except for the following Software Packages: (a) JBoss Portal Forums and JBoss Transactions JTS, each of which is licensed pursuant to the GNU General Public License v.2; (b) JBoss Rules, which is licensed pursuant to the Apache License v.2.0; (c) an optional download for JBoss Cache for the Berkeley DB for Java database, which is licensed under the (open source) Sleepycat License (if Client does not wish to use the open source version of this database, it may purchase a license from Sleepycat Software); and (d) the BPEL extension for JBoss jBPM, which is licensed under the Common Public License v.1, and, pursuant to the OASIS BPEL4WS standard, requires parties wishing to redistribute to enter various royalty-free patent licenses. Each of the foregoing licenses is available at <http://www.opensource.org/licenses/index.php>.

1. The Software. "Software Packages" refer to the various software modules that collectively comprise the JBoss Enterprise Middleware Suite. Each of the Software Packages is comprised of hundreds of software components. The end user license agreement for each component is located in the component's source code. With the exception of certain image files identified in Section 2 below, the license terms for the components permit Client to copy, modify, and redistribute the component, in both source code and binary code forms. This agreement does not limit Client's rights under, or grant Client rights that supersede, the license terms of any particular component.

2. Intellectual Property Rights. The Software Packages and each of its components, including the source code, documentation, appearance, structure and organization are owned by Red Hat and others and are protected under copyright and other laws. Title to the Software Packages and any component, or to any copy, modification, or merged portion shall remain with the aforementioned, subject to the applicable license. The "JBoss" trademark, "Red Hat" trademark, the individual Software Package trademarks, and the "Shadowman" logo are registered trademarks of Red Hat and its affiliates in the U.S. and other countries. This agreement does not permit Client to distribute the Software Packages using Red Hat's trademarks. Client should read the information found at <http://www.redhat.com/about/corporate/trademark/> before distributing a copy of the Software Packages, regardless of whether they have been modified. If Client makes a commercial redistribution of any Software Package(s), unless a separate agreement with Red Hat is executed or other permission granted, Client must replace all Red Hat trademarks and logos identified at <http://www.jboss.com/company/logos/>. Merely deleting the files containing the Red Hat trademarks may corrupt the Software Packages.

3. Limited Warranty. Except as specifically stated in this Paragraph 3 or a license for a particular component, **to the maximum extent permitted under applicable law, the Software Packages and the components are provided and licensed "as is" without warranty of any kind, expressed or implied, including the implied warranties of merchantability, non-infringement or fitness for a particular purpose.** Red Hat warrants that the media on which Software Packages may be furnished will be free from defects in materials and manufacture under normal use for a period of 30 days from the date of delivery to Client. Red Hat does not warrant that the functions contained in the Software Packages will meet Client's requirements or that the operation of the Software Packages will be entirely error free or appear precisely as described in the accompanying documentation. **This warranty extends only to the party that purchases the Services pertaining to the Software Packages from Red Hat or a Red Hat authorized distributor.**

4. Limitation of Remedies and Liability. To the maximum extent permitted by applicable law, the remedies described below are accepted by Client as its only remedies. Red Hat's entire liability, and Client's exclusive remedies, shall be: If the Software media is defective, Client may return it within 30 days of delivery along with a copy of Client's payment receipt and Red Hat, at its option, will replace it or refund the money paid by Client for the Software. **To the maximum extent permitted by applicable law, Red Hat or any Red Hat authorized dealer will not be liable to Client for any incidental or consequential damages, including lost profits or lost savings arising out of the use or inability to use the Software, even if Red Hat or such dealer has been advised of the possibility of such damages. In no event shall Red Hat's liability under this agreement exceed the amount that Client paid to Red Hat under this Agreement during the twelve months preceding the action.**

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