

# HP Business Service Management

For the Windows and Linux operating systems

Software Version: 9.26

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Enterprise Java Beans(TM) Specification ("Specification")

Version: 2.0

Status: Final Release

Release: August 22, 2001

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8.3 Upon expiration or termination of this Agreement and/or any of the licenses granted hereunder, Licensee agrees to return promptly all copies of the Products and related Documentation to Progress or, if requested by Progress, destroy such Products and Documentation and certify in writing to such return or destruction.

## 9. Miscellaneous

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9.5 Except as otherwise expressly set forth herein, this Agreement is governed by the laws of the Commonwealth of Massachusetts, without regard to its choice of law principles,

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9.6 This Agreement may not be modified or amended except in a writing executed by both Progress and Licensee.

9.7 Failure or delay on the part of Progress to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. A waiver of default shall not operate as a waiver of any other default or of the same type of default on future occasions.

9.8 The parties expressly disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods.

9.9 If the Product is acquired outside the United States local law may apply.

## EXHIBIT A

### TERM OF LICENSE:

Perpetual

### APPLICABLE FEES:

Any applicable license fees or maintenance fees will be set forth in the Order

## EXHIBIT B

### LICENSE MODELS AND DEFINITIONS:

The license model for the Product(s) purchased is set forth in the Order. The description of each Progress license model is set forth below.

For purposes of this Exhibit B, the following terms shall have the following definitions:

"Platform": A Platform is the specific combination of the hardware and the operating system, a change to either would constitute a platform change.

"Process": A Process is any automated process that is not initiated by a Client Device or a Non-Human Operated Device and includes, without limitation, automated controls and background jobs.

"Site": A site is defined as a single building or campus of buildings.

CPU License: A CPU License grants Licensee the right to run the Product, or an application which can access the Product, on a single core processing unit ("CPU") on a single server and on a single Platform. The total number of CPUs on the machine may not exceed the total number licensed to Licensee. Each processor core of a multiple core processor in a server shall count as one (1) CPU. Additional CPU License(s) are required for each CPU that runs the Product, including, without limitation, servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. A CPU License may not be transferred from one CPU or one Platform to another.

Disaster Recovery License: A Disaster Recovery License shall only be used by Licensee for the sole purpose of application recovery in the event a system fails or crashes or the Product or database files become corrupt. In that case, the D/R Product may be made operational for a period not to exceed ninety (90) days ("DS D/R Product Deployment Usage Period"). Licensee shall notify Progress in writing within five (5) business days of the commencement of the DS D/R Product Deployment Usage Period. Licensee shall be further subject to the license terms of the appropriate license model for the Product set forth in this Exhibit B. A Disaster Recovery License may be transferred from one server or CPU to another with prior notice to Progress so long as such change is permitted by the underlying license model. No Disaster Recovery license is required for a switch from a primary server to secondary server so long as the primary server is permanently disabled. However a Disaster Recovery license

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- (b) if the Product is Continuous Availability Edition, then the Product is licensed on a per CPU basis per Continuous Availability pair, on two (2) machines, where the total number of CPUs on each machine may not exceed the total number licensed to Licensee. A Continuous Availability pair comprises a primary or active CPU and a backup or standby CPU on the machine configured to operate in a fault tolerant manner. Only one of the CPUs is permitted to send and receive application messages at any time. Servers utilizing dual core processing (or multiple core processing) or other multi-processor technology shall have each processor core count as one (1) CPU. Additionally, the Product is licensed to a specific vendor operating system platform. A separate Product license must be purchased for each vendor operating system platform;
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**SonicMQ:**

- (a) if the Product is Enterprise Edition, then the Product is licensed on a per CPU basis. Additionally, the Product is licensed to a specific vendor operating system platform. A separate Product license must be purchased for each vendor operating system platform;
- (b) if the Product is Standard Edition, then the Product is licensed on a per CPU basis. Additionally, the Product is licensed to a specific vendor operating system platform. A separate Product license must be purchased for each vendor operating system platform;
- (c) if the Product is Remote Site Edition, then the Product is licensed on a per CPU basis. The Product is subject to the additional restriction that each remote site messaging broker supports a maximum of ten (10) client connections from a maximum of two (2) IP Addresses. Additionally, the Product is licensed to a specific vendor operating system platform. A separate Product license must be purchased for each vendor operating system platform;
- (d) if the Product is Continuous Availability Edition, then the Product is licensed on a per CPU basis per Continuous Availability pair, on two (2) machines, where the total number of CPUs on each machine may not exceed the total number licensed to Licensee. A Continuous Availability pair comprises a primary or active CPU and a backup or standby CPU on the machine configured to operate in a fault tolerant manner. Only one of the CPUs is permitted to send and receive application messages at any time. Additionally, the Product is licensed to a specific vendor operating system platform. A separate Product license must be purchased for each vendor operating system platform;
- (e) if the Product is Professional Developer Edition, then the Product is licensed on a named user basis, meaning specific individuals are authorized to access the Product and the total number of named users may not exceed the total number licensed to Licensee. The SonicMQ Professional Developer Edition is subject to the additional restriction that it be used by Licensee solely for development and unit testing of software applications, and not in conjunction with the deployment of such software applications. Licensee must purchase a license for the SonicMQ Standard Edition, SonicMQ Enterprise Edition or the SonicMQ Continuous Availability Edition in order to deploy such software applications;

Sonic Database Service(TM) Deployment Edition is licensed on a per CPU per database type basis, where the total number of CPUs on a database may not exceed the total number licensed to Licensee. Servers utilizing dual core processing (or multiple core processing) or other multi-processor technology shall have each processor core count as one (1) CPU. The Product contains a DataDirect JDBC Driver which may only be used in conjunction with the Product;

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Sonic XML Server:

(a) if the Product is Standard Edition, then the Product is licensed on a per CPU basis and only a single host deployment is permitted. Servers utilizing dual core processing (or multiple core processing) or other multi-processor technology shall have each processor core count as one (1) CPU. Additionally, the Product is licensed to a specific vendor operating system platform. A separate Product license must be purchased for each vendor operating system platform;

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Sonic BPEL Server Deployment Edition is licensed on a per CPU basis. Additionally, the Product is licensed to a specific vendor operating system platform. A separate Product license must be purchased for each vendor operating system platform; Sonic Deployment Manager is licensed on a per machine basis.

The total number of machines on which the Product is deployed cannot exceed the number of machines licensed Sonic JCA Resource Adapter is licensed on a per machine basis and the total number of machines on which the Product is deployed may not exceed the total number licensed to Licensee

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The Product contains GNU Jcalendar; IBM Bean Scripting Framework; IBM Web Services Description Language for Java ("WSDL4J"); IBM Universal Description, Discovery and Integration for Java ("UDDI4J"); Eclipse Graphical Editor Framework (GEF) SDK; Eclipse Modeling Framework (EMF); Eclipse Web Standard Tools (WST); Java EMF Model (JEM) SDK; XSD Run-time; XSD Standalone; SQL Explorer; and DSTC Xs3P.

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Progress Sonic V7.6.2 EULA, Final 16-OCT-08

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- jce 1.2.1

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Section 7.7 "Unique Package Names", on page 125 of this specification which states, in part:

"You form a unique package name by first having (or belonging to an organization that has)



an Internet domain name, such as "sun.com". You then reverse the name, component by component, to obtain, in this example, "Com.sun", and use this as a prefix for Your package names, using a convention developed within Your organization to further administer package names."

3.2. Additional Requirements and Responsibilities. Any additional requirements and responsibilities relating to the Technology are listed in Attachment F (Additional Requirements and Responsibilities), if applicable, and are hereby incorporated into this Section 3.

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Description of "Technology"

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##### 2. Requirements for Determining Compliance.

###### 2.1. Definitions.

a) "Added Value" means code which:

(i) has a principal purpose which is substantially different from that of the stand-alone Technology;

(ii) represents a significant functional and value enhancement to the Technology;

(iii) operates in conjunction with the Technology; and

(iv) is not marketed as a technology which replaces or substitutes for the Technology.

b) "Java Classes" means the specific class libraries associated with each Technology defined in Attachment B.

c) "Java Runtime Interpreter" means the program(s) which implement the Java virtual machine for the Technology as defined in the Specification.

d) "Platform Dependent Part" means those Original Code and Upgraded Code files of the Technology which are not in a share directory or subdirectory thereof.

e) "Shared Part" means those Original Code and Upgraded Code files of the Technology which are identified as "shared" (or words of similar meaning) or which are in any "share"

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f) "User's Guide" means the users guide for the TCK which Original Contributor makes available to You to provide direction in how to run the TCK and properly interpret the results, as may be revised by Original Contributor from time to time.

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- a) must include Added Value;
- b) must fully comply with the Specifications for the Technology specified in Attachment B;
- c) must include the Shared Part, complete and unmodified;
- d) may not modify the functional behavior of the Java Runtime Interpreter or the Java Classes;
- e) may not modify, subset or superset the interfaces of the Java Runtime Interpreter or the Java Classes;
- f) may not subset or superset the Java Classes;
- g) may not modify or extend the required public class or public interface declarations whose names begin with "java", "javax", "jini", "net.jini", "sun.hotjava", "COM.sun" or their equivalents in any subsequent naming convention;
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- JAF 1.0.2

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- JavaServiceWrapper v3.5.15

Tanuki Software, Inc.

Development Software License Agreement

Version 1.0

License Agreement Number: TSILA-\_\_\_\_\_

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(1) Licensee shall promptly deliver to TSI notice in writing of any claim for recovery under this section, and, if known, specify in reasonable detail the nature of the Loss and the amount, or an estimate of the amount, of the liability arising therefrom. Licensee shall, at TSI's expense, provide to TSI as promptly as practicable thereafter information and documentation reasonably requested by TSI to support and verify the claim asserted, provided that, in so doing, it may restrict or condition any disclosure in the interest of preserving privileges of importance in any foreseeable litigation.

(2) If the facts pertaining to the Loss arise out of the claim of a third party, or if there is any claim against a third party available by virtue of the circumstances of the Loss, TSI shall assume the defense or the prosecution thereof, including the employment of counsel or

accountants, at its cost and expense. Licensee shall have the right to employ counsel separate from counsel employed by TSI in any such action and to participate therein, but the fees and expenses of such counsel employed by Licensee shall be at Licensee expense. TSI shall have the right to determine and adopt (or, in the case of a proposal by Licensee, to approve) a settlement of such matter in its reasonable discretion. TSI shall not be liable for any settlement of any claim effected without its prior written consent, which shall not be unreasonably withheld. Whether or not TSI chooses to so defend or prosecute such claim, Licensee and TSI shall cooperate in the defense or prosecution thereof and shall furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith.

(3) If such a claim arises, or in either party's judgment is likely to arise, Licensee agree to allow TSI, at TSI's option, to either (i) procure the right to permit the continued exercise of the rights and licenses in the Software Program granted under this Agreement; (ii) replace or modify the Software Program so it becomes non-infringing, while affording equivalent performance; or (iii) as its sole obligation, terminate the license for the infringing Software Program and upon return thereof by Licensee, refund the unearned portion of any license fees paid by Licensee for the remainder of the current term hereof.

(4) TSI shall have no indemnity obligation for claims of infringement resulting from any combination, operation or use of the Software Program, or any components thereof, with any software programs or data not supplied by TSI if such infringement would have been avoided by use of the Software Program alone. Licensee acknowledges and agrees that these four items are the exclusive remedy of Licensee for damages for breach of warranty or representations contained in this Section 7.

#### Section 8 - Termination

Should either party commit a material breach of its obligations hereunder, the other party may, at its option, terminate this Agreement by written notice to the party in default. Such notice shall identify and describe the default upon which termination is based. The defaulting party shall have thirty (30) days from the effective delivery of the notice to cure such default, which, if effected, shall prevent termination by virtue of such default. Upon termination of this Agreement, Licensee will either return to TSI or destroy all copies of the Software Program and documentation then in your possession. Licenses to the Software Program granted in the normal course of business by Licensee to your customers shall survive termination of this Agreement. Licensee shall, within thirty (30) days after the date of such termination furnish TSI with a certificate of compliance in accordance with this Section. The parties agree that TSI shall have the right to enforce the obligations arising under this Section by seeking specific performance and to enjoin or compel Licensee through injunctive relief. Licensee may retain a commercially reasonable number of copies of the Software Program and documentation solely for the purpose of supporting Licensee customers.

#### Section 9 - Export Controls

Licensee shall comply with, and request of and/or notify Licensee sublicensees and resellers that they comply with, all applicable laws, regulations, rulings and executive orders of Japan relating to the export and re-export of Products containing the Software Program. Licensee shall not directly or indirectly export or re-export any Products containing the Software Program unless Licensee have obtained a license to do so if such a license is required.

#### Section 10 - Entire Agreement

This Agreement, including any attachments, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements, both oral and written, representations, statements, negotiations and undertakings, with respect to the subject matter hereof, which such agreements, representations, statements, negotiations and undertakings are merged herein. No amendment or modification of this Agreement or any provision or attachment of this Agreement shall be effective unless it is in writing and signed

by both parties.

#### Section 11 - Governing Law

The validity, construction and performance of this Agreement shall be governed by the substantive laws of Tokyo Prefecture, Japan (excluding conflicts of law principles). Each party hereto expressly consents to the personal jurisdiction of, and venue in, such courts. If any legal action is undertaken to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which that party may be entitled.

#### Section 12 - Assignment and Benefit

Without the consent of the other party in writing, neither party may assign this Agreement; provided, however, TSI or Licensee may assign this Agreement to a wholly-owned subsidiary of the respective corporation or a corporation in which the shareholders of the respective corporation own a majority interest of the voting control provided that the assigning party remains obligated hereunder; further provided, however, TSI or Licensee may assign this Agreement to another corporation which acquires or has acquired substantially all of the stock or assets of the assignor so long as, if the assignor is Licensee, the assignee's license to use the Software Program is limited to use in Products which were offered by Licensee to Licensee customers or potential customers and the assignee is prohibited from use of the Software Program in other products or parts of products developed, sold or distributed by the assignee.

This Agreement shall be binding upon and shall inure to the benefit of Licensee and TSI and each party's successors, subject to the other provisions of this Section.

#### Section 13 - 3rd Party Components

(1) The Software Program includes software and documentation components developed in part by Silver Egg Technology, Inc. ("SET") prior to 2001. All SET components were released under the following license.

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