Subscription Agreement

This Subscription Agreement (the "Agreement") is between Red Hat Ireland Limited ("Red Hat") and any purchaser or user ("Customer") of Red Hat products and services that accepts the terms of this Agreement ("Customer").

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE PURCHASING OR USING RED HAT PRODUCTS AND SERVICES. BY USING OR PURCHASING RED HAT PRODUCTS OR SERVICES, CUSTOMER 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 CUSTOMER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT USE OR PURCHASE RED HAT PRODUCTS AND SERVICES.

The Effective Date of this Agreement is the earlier of the date that Customer accepts this Agreement or the date that Customer uses Red Hat's products or services.

I. Terms and Conditions

A. GENERAL TERMS AND CONDITIONS

The term "Services" as used in this Agreement means, collectively, the Support Services provided under the purchased subscription and defined herein, RHN Services as defined herein, and any Learning Services purchased under this Agreement and defined herein. The term "Software" means the family of software products purchased under this Agreement and defined herein, if any. The term "Installed Systems" means the number of Systems on which Customer installs the Software. The term "System" means any hardware on which the Software is installed, which may be, without limitation, a server, a work station, a virtual machine, a blade, a partition or an engine, as applicable. The initial number of Installed Systems is the number of copies of the Software that Customer purchases. Red Hat shall use reasonable endeavours to provide the Services to Customer in accordance with this Agreement including, without limitation, Schedule II.

1. TERM AND TERMINATION

1.1 Term. The term of this Agreement shall be for the duration of all Services provided under this Agreement. The initial term for Services shall commence on the Effective Date of this Agreement and shall continue for a period of one (1) year. Thereafter, the term for Services shall renew for successive terms of one (1) year each unless either party gives written notice to the other of its intention not to renew at least sixty (60) days prior to the commencement of the next term; provided, however, Customer shall have the right to terminate this Agreement at any time after the first year by giving sixty (60) days prior written notice of termination to Red Hat. Customer shall remain obligated for all fees through the date of termination.

1.2 Termination for Breach. Red Hat may terminate this Agreement immediately on written notice to the Customer (a) in the event Customer fails to pay an invoice when due, (b) in the event Customer commits a material breach of this Agreement and fails to remedy that breach within thirty (30) days of receipt of written notice of material breach, or (c) as otherwise provided in this Agreement. Customer may terminate this Agreement in the event Red Hat commits a material breach of this Agreement and fails to remedy that breach within thirty (30) days of receipt of written notice of material breach.

2. PRICING, INVOICING AND TAXES. Customer agrees to provide Red Hat with accurate and complete billing information (including legal name, address, telephone number, and billing or credit information). Customer will report to Red Hat all changes to this information within thirty (30) days of the change. Red Hat reserves the right to suspend or cancel Services for non-payment immediately on written notice to the Customer. All fees are stated and must be paid in pounds sterling. If Customer is paying by credit card, then Customer authorizes Red Hat to bill Customer's credit card for the Services for the initial term and for the amount due at the time of renewal, provided that notice has not been given in accordance with Section 1.1. If Red Hat has approved Customer to be invoiced, then Red Hat will invoice Customer for the total fees at the time of execution of this Agreement, and payment shall be due within thirty (30) days of the invoice date and any additional fees shall be due within thirty (30) days of the invoice date. All prices and rates quoted by Red Hat are exclusive of all sales taxes, including value added tax or similar taxes. Customer agrees to pay all such taxes, when applicable, regardless of whether such taxes are originally charged on Customer's credit card or appear on Red Hat's original invoice, or are later levied on Red Hat or Customer by a taxing authority, excluding any taxes levied solely on the net taxable income of Red Hat. Any renewal of this Agreement will be at Red Hat's list prices in effect ninety (90) days prior to renewal; provided, however, the first such renewal shall be at the same price per Installed System paid during the initial term.

3. PAYMENT. Except in the case of breach of this Agreement by Red Hat or termination of this Agreement as provided in Section 1.1 hereof, any and all payments of amounts due under this Agreement are non-refundable. In the event Customer fails to make payment to Red Hat in the manner provided by this Agreement, Red Hat's remedies include (a) suspending Services until Red Hat receives full payment from Customer for all fees, including late fees and interest, due, or (b) terminating this Agreement, in each case immediately on written notice to the Customer.

4. REPORTING AND AUDIT. If Customer wishes to increase the number of Installed System, then Customer will purchase from Red Hat additional Services for each additional Installed System. During the term of this Agreement and for one (1) year thereafter, Customer expressly grants to Red Hat the right to audit Customer's facilities and records from time to time in order to verify Customer's compliance with the terms and conditions of this Agreement. Any such audit shall only take place during Customer's normal business hours and upon no less than ten (10) days prior written notice from Red Hat. Red Hat shall conduct no more than one such audit in any twelve-month period except for the express purpose of assuring compliance by Customer where non-compliance has been established in a prior audit. Red Hat shall give Customer written notice of any non-compliance, and if a payment deficiency exists, then Customer shall have fifteen (15) days from the date of such notice to make payment to Red Hat for any payment deficiency. The amount of the payment deficiency will be determined by multiplying the number of underreported Installed Systems or Services by the annual fee for such item. If Customer is found to have underreported the number of Installed Systems or amount of Services by more than five percent (5%), Customer shall, in addition to the annual fee for such item, pay liquidated damages equal to twenty percent (20%) of the underreported fees for loss of income and administration costs suffered by Red Hat as a result.

5. NON-TRANSFERABLE. This Agreement, and all Services provided by Red Hat pursuant to this Agreement, may not be transferred, assigned or distributed without the prior written consent of Red Hat. Any attempted transfer, assignment or distribution without Red Hat's prior written consent shall terminate this Agreement, and Red Hat shall have no further obligation hereunder.

6. WARRANTY. Except as specifically stated in this Agreement, the Software, the Services, and any software program provided by means of RHN, any Proxy Server, Satellite, or the RHN Code (each as defined herein) are provided and **LICENSED "AS IS" WITHOUT WARRANTY OF ANY KIND,**

EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT 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 BY RED HAT TO THE FULLEST EXTENT PERMITTED BY LAW. RED HAT DOES NOT GUARANTEE AND GIVES NO WARRANTY THAT THE USE OF THE SOFTWARE, SERVICES, OR THE PROXY SERVER, SATELLITE, OR THE RHN CODE (EACH AS DEFINED HEREIN) WILL BE UNINTERRUPTED OR ERROR FREE.

7. LIMITATION OF LIABILITY. (7.1) Neither party shall be in breach of this Agreement due to failure of performance that arises out of causes beyond its reasonable control. This Section 7 sets out the entire liability of Red Hat to Customer under the whole or any part of this Agreement, whether in contract, tort (including, but not limited to, negligence), statute, common law or otherwise. **IN NO EVENT WILL RED HAT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT, TORT, STATUTE OR OTHERWISE IN RESPECT OF ANY LOSS OF PROFITS AND/OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, FOR ANY:**

(a) LOSS OF REVENUE;

(b) LOSS OF ANTICIPATED SAVINGS OR THE USE OF MONEY;

(c) LOSS OF BUSINESS;

(d) LOSS OF GOODWILL;

(e) LOSS OF USE OR DOWNTIME;

(f) LOSS OF OR CORRUPTION TO DATA OR OTHER INFORMATION OR LOSS OF OR DAMAGE TO SOFTWARE;

(g) DAMAGE RELATING TO THE PROCUREMENT BY CUSTOMER OF ANY SUBSTITUTE PRODUCTS OR SERVICES; OR

FOR THE AVOIDANCE OF DOUBT, THE TYPES OF LOSS AND/OR DAMAGE SPECIFIED IN SUB-SECTIONS (a) TO (g), INCLUSIVE, OF THIS SECTION 7 SHALL NOT CONSTITUTE DIRECT LOSS FOR THE PURPOSES OF THIS AGREEMENT. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 7.2 BELOW, IN NO EVENT SHALL RED HAT'S LIABILITY HEREUNDER EXCEED THE AMOUNT THAT CUSTOMER PAID TO RED HAT UNDER THIS AGREEMENT DURING THE PREVIOUS TWELVE MONTHS. (7.2) 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 results from the negligence or wilful default of Red Hat, its agents, servants or subcontractors; (b) any breach of undertaking as to the quiet possession and freedom from encumbrance implied by law; and/or (c) fraudulent misrepresentation.

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

9. ENTIRE AGREEMENT. This Agreement shall constitute the exclusive terms and conditions with respect to the purchases of Software and Services under this Agreement by Customer from Red Hat, notwithstanding any different or additional terms that may be contained in the form of purchase order or other document used by Customer in such transactions. This Agreement contains the final, complete and exclusive statement of the agreement between the parties with respect to the transactions contemplated herein and all prior written agreements and all prior and contemporaneous oral agreements with respect to the subject matter herein are merged herein including any Subscription Descriptions and Subscription Purchase Terms. This Agreement may not be amended, supplemented or modified (or any right or power granted hereunder waived) except by written instrument signed by authorized officers of the parties hereto (or in the case of a waiver, signed by the party to be bound), which instrument makes specific reference to this Agreement. Nothing in this Agreement shall operate to limit or exclude any liability for fraudulent misrepresentation.

10. GENERAL. (10.1) This Agreement shall be governed by and construed in accordance with the laws of England and Wales, and the parties hereby submit to the non-exclusive jurisdiction of the English courts. (10.2) Each party warrants that the person signing or accepting this Agreement is authorized to bind said party. (10.3) If one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable in any respect by any court of competent jurisdiction, such holding will not impair the validity, legality, or enforceability of the remaining provisions. (10.4) Failure or delay on the part of any party to exercise any right, remedy, power or privilege hereunder will not operate as a waiver. (10.5) Any provision of this Agreement which may be reasonably expected to survive the termination of this Agreement, including, but not limited to, the sections entitled Warranty and Limitation of Liability, shall survive such termination. (10.6) Red Hat may supply Customer with technical data that is subject to export control restrictions. Red Hat will not be responsible for compliance by Customer with applicable export restrictions or obligations for such technical data. Each party agrees to comply with any applicable export control laws or regulations. (10.7) Any notice to be given pursuant to this Agreement, including any notice of change of address for notice, shall be deemed given when sent to Red Hat to Red Hat Ireland Limited, 8 Robert Scott House, 7-10 St Patrick's Quay, Cork, Ireland or by facsimile to +353 21 230 3499 with a copy to General Counsel, Red Hat, Inc., 1801 Varsity Drive, Raleigh, NC 27606, USA or by facsimile to 919-754-3704 and to Customer at the address or facsimile number indicated at the time of purchase: (a) upon receipt when delivered in person; (b) two (2) business days after being deposited with a reputable international overnight delivery service; or (c) one (1) business day after being transmitted by facsimile with confirmation of delivery to the number for such party set forth in this Agreement. (10.8) In the event of a dispute between the parties regarding payment under this Agreement, the non-prevailing party shall pay the reasonable attorney's fees of the prevailing party. (10.9) Both parties shall duly observe all of their relevant obligations under the Data Protection Act 1998 (as amended from time to time) which arise in connection with this Agreement and Customer hereby consents and shall procure that such of its employees, officers and sub-contractors including, without limitation, the Contacts (as defined in II.A.2.3) consent to the transfer of any data provided to Red Hat pursuant to this Agreement to any group undertaking (as defined by section 259 of the Companies Act 1985 (as amended)) 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. (10.10) 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 shall be entitled to enforce the terms of Appendices 1 and 2 as if it were a party to this Agreement. (10.11) Time shall not be of the essence in respect of any of Red Hat's obligations under this Agreement.

II. Support Services Service Levels

A. SUBSCRIPTION TERMS AND CONDITIONS

Red Hat will provide the purchased subscription(s) subject to the following terms.

1. DEFINITIONS:

"Platform" means the combination of the CPU and other hardware a computer system uses, its exact operating system including the version number, the compiler required, the type of libraries (e.g. libc, glibc), and the type of crypto library available (e.g. libcrypt, pam). Changes to any of these components which break binary compatibility, or prohibit functioning (including recompiling) of software, unless modified by Red Hat, constitute a different platform and may disqualify it from receiving Support Services. Should a platform be discontinued during the term of this Agreement, Red Hat will have the option to continue supporting Customer on that platform or to issue Customer a pro-rata refund.

Red Hat Network ("RHN") is an electronic update service for systems running Red Hat Enterprise Linux.

"Software" means the software purchased under this Agreement, which is provided under Red Hat's trademarks and is subject to the applicable end user license agreement.

"Support Services" means the support services provided with the purchased subscription as further defined in this Agreement.

"Supported Hardware or Platform" means hardware or a platform that functions with the Software and components contemplated for use with the Software. Information regarding the Red Hat supportability status of hardware systems and components, as revised from time to time, can be found at http://hardware.redhat.com/hcl. Additional Red Hat support policies that apply to the Support Services may be viewed at http://www.redhat.com/services/techsupport/production/GSS_policy.html.

2. CUSTOMER OBLIGATIONS

2.1 Entitlement. In order to access and utilize Support Services, Customer will be required to provide Red Hat with its Customer number, RHN machine name or RHN system ID at the time of initiating the Support Service.

2.2 Customer's Computer System. Customer will be responsible for performing operations on Customer's computer system and Red Hat shall have no responsibility to perform operations on Customer's computer system. Customer acknowledges that Red Hat's ability to perform certain Support Services may be conditioned upon access to certain Customer information and access to Customer's computer system as reasonably requested by Red Hat. Such information may include, but is not limited to, the type of hardware Customer is using, a description of the problem for which Customer seeks Support Services, and additional software Customer is using that falls outside the Support Services scope of coverage. Customer understands and agrees that the completeness and accuracy of the information Customer provides to Red Hat may affect Red Hat's ability to provide Support Services. The Support Services purchased by Customer are intended for use only for the benefit of the Customer and only for the Installed Systems with subscriptions. Customer 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.

2.3 Designated Customer Contact. Red Hat will provide Support Services to Customer only by communication with the Customer's designated technical contact or contacts (the "Contact"). Customer is entitled to the number of Contacts set forth in the Customer Contacts table in II.B.3.4. Customer may purchase additional Contacts for a fee. Customer shall use commercially reasonable efforts to maintain consistent Contacts during the term of this Agreement. Customer may not use a single Contact to act as a mere forwarding service for other personnel. The Contact may not use Support Services on the basis of this Agreement to benefit any person or entity other than the Customer. Each Contact must have read and/or write access to all necessary files. Each Contact must have English language communication skills and the relevant technical knowledge necessary to assist Red Hat in performing the Support Services contemplated under this Agreement. This knowledge includes familiarity with the Software and the Supported Hardware or Platform.

2.4 Support Portal. Customer may initiate Support Service requests through the web-based support portal located at Red Hat's main web site, http://www.redhat.com/apps/support . The Contact(s) are entitled to open a secure login to the support portal and use the ticket manager application to submit a Support Service request for any covered Support Service. Each submitted Support Service request is given a unique identification number. Support Services logged through the support portal are managed using the English language.

B. SERVICE LEVELS FOR SUBSCRIPTIONS

1. Red Hat Network Proxy Server and Satellite. If Customer subscribes to RHN Proxy Server or Satellite ("Proxy Server" or "Satellite") as an upgraded delivery method to RHN, then the following provisions apply to that subscription. To provide Proxy Server or Satellite, the Proxy Server and/or Satellite code (the "RHN Code") will be installed onto one or more designated servers owned or leased by Customer, approved by Red Hat and located at Customer's site or provided by Red Hat (the "RHN Servers") solely for the purpose of allowing Customer to receive the RHN Service during the period that the Customer subscribes to RHN Service (the "Subscription Period"). Customer may use the RHN Code only on the RHN Servers and, upon Red Hat's written approval, on one additional server for backup purposes. Customer may use the RHN Code only to receive the RHN Services for systems for which Customer has purchased a subscription for RHN Service. Customer may not use the RHN Code for any other purpose. Customer may not transfer or assign the RHN Code or any media containing the RHN Code. Should Customer require information necessary to create an independent program to operate within the RHN Code, Customer should notify Red Hat. Red Hat shall provide such information to Customer within a reasonable period of such notification. In this event, Customer shall not be entitled to decompile the RHN Code. Save to the extent permitted by law, Customer may not modify, copy, make derivative works of, distribute, reverse engineer, decompile or export the RHN Code. During the Subscription Period, Customer agrees that Red Hat shall have such electronic or physical access to the RHN Servers as Red Hat reasonably requests to enable Red Hat to deliver the RHN Service and to update or enhance the RHN Code as Red Hat deems necessary, in its sole discretion. The RHN Code and any physical media containing the RHN Code and all intellectual property rights contained therein, and all copies thereof made by Customer (if authorized by Red Hat) are the exclusive property of Red Hat and a valuable trade secret of Red Hat. Upon termination of this Agreement, Customer immediately will destroy all copies of the RHN Code in its possession (including any RHN Code installed on the RHN Servers). The RHN Code (and any media containing the RHN Code) is the confidential property of Red Hat and Customer shall not use or disclose any information regarding the RHN Code, except as permitted by this Agreement. If Red Hat provides the RHN Server to Customer, Customer must promptly return such hardware to Red Hat upon termination of this Agreement.

2. Response Guidelines. A response to a request for Support Services shall consist of receipt of and acknowledgment by Red Hat of Customer's request for Support Services. Red Hat will use reasonable endeavours to provide a response within the response guideline period set forth in the table below during standard business hours and days as set forth in the table below, exclusive of Red Hat holidays. Customer acknowledges that a response may not include resolution for all requests for Support Services. Red Hat will use reasonable endeavours to provide answers and resolve Customer's requests for Support Services. However, Customer acknowledges and understands that no software is perfect or error free and that, despite Red Hat's reasonable endeavours, Red Hat may be unable to provide answers to or resolve some or all requests for Support Services. Red Hat makes no promises, guarantees, or assurances of any kind that it will be able to resolve all Customer Support Services requests.

3. SLA Tables:

3.1. Response Guidelines:

Subscription Type	Response Guidelines
Standard Support Services	4 Business Hours by telephone 2 Business Days by Web/email
Premium Support Services	1 hour by telephone 1 day by Web/email
Developer Support Services	1 Business Day

3.2. Severity Level Definitions:

Severity Level	Definition
1	Catastrophic production problem which may severely impact the Customer's production systems, or in which Customer's production systems are down or not functioning; loss of production data and no procedural work around exists. Severity 1 problem also includes issues that result in an emergency condition that causes a serious security breach.
2	High-impact problem in which the Customer's operation is disrupted but there is capacity to remain productive and maintain necessary business-level operations. Severity 2 problem also applies for minor security breach situations.
3	Medium-to-low impact problem which involves partial non-critical functionality loss. One which impairs some operations but allows the Customer's system to continue to function. This may be a minor issue with limited loss or no loss of functionality or impact to the Customer's operation and issues in which there is an easy circumvention or avoidance by the end user. This includes documentation errors.
4	General usage questions, recommendations for future product enhancements or modifications and to calls that are passed to Red Hat for information purposes. There is no impact on the quality, performance or functionality of the product.

3.3 Standard Business Hours and Days:

GEOGRAPHY	STANDARD BUSINESS HOURS AND DAYS
North America, South America	9 a.m. To 9 p.m. EST Monday-Friday
Europe, Middle East, Africa	UK: 9 a.m. To 5 p.m. GMT Monday-Friday Other: 9 a.m. To 5 p.m. CET Monday-Friday
Japan	9 a.m. To 5 p.m. JST Monday-Friday
Pacific Rim Countries	9 a.m. To 5 p.m. local times Monday-Friday

3.4 Number of Contacts:

Number of Installed Systems	Number of 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

4. Support Service Conditions.

4.1 Red Hat may, at its discretion, decline to provide Support Services for Software that has been modified or changed by Customer in any way, except as directed by Red Hat. Red Hat will provide Support Services for Supported Hardware and Platforms only. Red Hat will only provide Support Services for those Installed Systems for which Customer has subscribed under this Agreement.
4.2 Red Hat may, at its discretion, decline to provide Support Services for the packages included in the Software which are designated as "kernel-unsupported."

III. Learning Services Terms and Conditions

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

A. Learning Services Definition:
The term "Learning Services" means Red Hat's training courses purchased under this Agreement which may include Red Hat's publicly available courses ("Open Enrollment Courses") or Red Hat's training units, which may be redeemed for Open Enrollment Courses ("TUs").

B. Learning Services Additional Terms and Conditions:

In addition to the General Terms and Conditions set forth in Section I hereof, the following terms apply to Learning Services:

1. Payment and Expense Reimbursement. The total fees must be paid prior to the delivery of Learning Services, notwithstanding any contrary term set forth in Schedule I.

2. Equipment and Facilities. For Open Enrollment Courses, Red Hat agrees to provide appropriate training facilities and hardware, and Customer will be liable for any loss or destruction of such equipment and hardware used in connection with the Learning Services. Learning Services, offerings, scheduling, capacity limitations, and availability are subject to change from time to time, without notice.

3. Customer Responsibilities. Customer is responsible for assessing the participants' suitability for the Learning Services and enrollment in the appropriate course(s). Customer 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 incorporated herein.

4. 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 shall not be copied or transferred without the prior written consent of Red Hat. Training IP shall be deemed to be Red Hat's confidential and proprietary information.

5. Delivery Date and Cancellation. Customer 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 Customer cancels or reschedules with less than ten (10) business days notice there will be a charge or 25% of the undiscounted total fees plus any travel and other expenses incurred by Red Hat.

6. Training Units. TUs may be redeemed solely for training seats in standard, public, Open Enrollment Courses sponsored by Red Hat at a Red Hat training facility for a period of one (1) year from the effective date. TUs are non-refundable and may not be redeemed for cash or credit. Red Hat has sole discretion regarding where and when the TUs can be redeemed and they may not be redeemed or applied toward Red Hat eLearning or On-site Courses. TUs cannot be pro-rated or combined with any other discount, special offer or coupon.

7. Nonsolicitation. Customer agrees that during the term of this Agreement and for a period of six (6) months thereafter, Customer will not solicit or hire the instructor(s) that provide the Learning Services to Customer or induce such instructor(s) to reduce the number of hours he or she works for Red Hat regardless of whether such instructor is an employee or independent contractor of Red Hat.

Appendix 1

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 ("Customer") a license to this collective work pursuant to the GNU General Public License.

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 Customer to copy, modify, and redistribute the component, in both source code and binary code forms. This agreement does not limit Customer's rights under, or grant Customer 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 Customer to distribute the Software using Red Hat's trademarks. Customer 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 Customer makes a commercial redistribution of the Software, unless a separate agreement with Red Hat is executed or other permission granted, then Customer 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 agreement 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 Customer. Red Hat does not warrant that the functions contained in the Software will meet Customer'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 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 Customer as its only remedies. Red Hat's entire liability, and Customer's exclusive remedies, shall be: If the Software media is defective, Customer may return it within 30 days of delivery along with a copy of Customer's payment receipt and Red Hat, at its option, will replace it or refund the money paid by Customer for the Software. **To the maximum extent permitted by applicable law, Red Hat or any Red Hat authorized dealer will not be liable to Customer 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 Customer paid to Red Hat under this agreement during the twelve months preceding the action.**

5. Export Control. As required by U.S. law, Customer 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 741.17(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 Customer does not agree to abide by the applicable license terms for such programs, then Customer may not install them. If Customer wishes to install the programs on more than one system or transfer the programs to another party, then Customer 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 2

LICENSE AGREEMENT AND LIMITED PRODUCT WARRANTY
RED HAT STRONGHOLD FOR RED HAT ENTERPRISE LINUX AND RED HAT STRONGHOLD FOR UNIX

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 ("Customer") a license to this collective work pursuant to the GNU General Public License.

1. The Software. Red Hat Stronghold for Red Hat Enterprise Linux and Red Hat Stronghold for Unix (the "Software") are secure web servers consisting of hundreds of software components. The end user license agreement for each component is located in the component's source code. Subject to Section 2 below, the license terms for the components permit Customer to copy, modify, and redistribute the component, in both source code and binary code forms. This agreement does not limit Customer's rights under, or grant Customer 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 "Stronghold" and "Red Hat" trademarks and the "Shadowman" logo are registered trademarks of Red Hat in the U.S. and other countries. This agreement does not permit Customer to distribute the Software using Red Hat's trademarks. Customer 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.

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