Licensing terms

dbWatch End User License Agreement

1. PARTIES

This License and Services Agreement ("Agreement") is between dbWatch AS, organization number 991 500 456 Norway ("dbWatch"), and the Customer, which is the entity or person whose name and contact details as it appears on the order form or purchase agreement ("Customer").

2. DEFINITIONS

"Agreement" meaning this License and Services Agreement, including any Exhibits.

"Customer" meaning the company identified above, including any partnership, joint venture, corporation or other form of enterprise that Customer directly or indirectly controls. Such entities will be known as "Affiliates". As used in this definition, "controls" means (1) ownership, directly or indirectly, being fifty percent (50%) or more of voting securities of such party or (2) majority ownership of an entity as described herein.

"Documentation" means the user, system, and installation documentation for the Software, as provided and updated online by dbWatch from time to time.

"Software" means the features, functions, and configurations in any of dbWatch' proprietary computer programs obtained under this Agreement (as chosen by the Customer online at the Internet site hosted by dbWatch), in machine-readable, object code form only, and any Updates thereto made available to Customers by dbWatch in machine-readable, object code form.

"Effective Date" means the date of Customer accepts the terms and conditions of this Agreement by clicking "Accept" or "Ok" during installation or upgrade of the Software.

"Error" means an abnormality in the Software which significantly degrades such Software as compared to the published performance specifications described in its Documentation.

"Update" means a new version of the Software, which is indicated by the Release date. Typically, an Update Release will include corrections, performance improvements, and new features.

"Version" means the Release date of the software.

3. LICENSE

3.1 Grant of License

In consideration of the License Subscription Fee paid by the Customer from time to time and subject to the terms and conditions of this Agreement, dbWatch grants to Customer a limited, non-sub-licensable, non-exclusive, non-transferable (except as expressly provided below) license for the term covered by the License Subscription Fee (cf. clauses 6.1 and 12.1) to: (a) install or have installed, the Software on Customer's Enterprise Network, (b) use the Software, in accordance with the Documentation solely for its own internal use, © make one copy of the Software for archival or backup purposes only, provided that all titles, trademarks, copyright, proprietary and restricted rights notices shall be reproduced in such copy, and that such copy shall be subject to the terms of this Agreement, and (d) make copies of the Documentation as necessary or convenient for the internal use of the Customer, provided that all titles, trademarks, copyright, proprietary and restricted rights notices shall be reproduced in all such copies, and that all such copies shall be subject to the terms of this Agreement.

3.2 License Restrictions

Customer may not (except to the extent permitted by section 39i of the Norwegian Copyright Act 1961 (åndsverksloven)): (a) modify, disassemble, decompile or reverse engineer the Software nor permit or encourage any third party to do so, (b) use the Software in any manner to provide service bureau, time-sharing or other computer services to third parties, except as expressly provided herein, © use the Software in any manner to assist or take part in the development, marketing, or sale of a product potentially competitive with the Software, (d) reveal to any third party any benchmark results, comparing any part of the Software with any potentially competing product, (e) use the Software, or allow the transfer, transmission, export, or re-export of the Software or portion thereof in violation of any export control laws or regulations of any government agency, or (f) read, write, view or extract information without the appropriate license.

3.3 Use of Software by Third Parties

Customer may allow its contractors and agents to use the Software, solely on its behalf, in the same manner as Customer under this Agreement and subject to all the terms and conditions of this Agreement. Any such contractor or agent using the Software will be deemed to have agreed to comply with this Agreement. The customer will notify the contractor or agent of the same and will be responsible for any non-compliance by it.

3.4 Limited Rights

Customer's rights to the Software will be limited to those expressly granted in this License Terms Section 3 . dbWatch reserves all rights and licenses in and to the Software not expressly granted to Customer under this Agreement. Any Affiliate using the Software will be deemed to have agreed to comply with this Agreement. The customer will notify such Affiliate of the same and will be responsible for any non-compliance by it.

3.5 Changes to Software

From time to time, dbWatch may require that the Software is discontinued, changed, or improved. dbWatch shall have the right to discontinue the Software and make any changes and improvements to the Software at any time without dbWatch incurring any obligation to

Customer. Customer shall accept the Software so changed or improved in the fulfillment of this Agreement.

4. OWNERSHIP

dbWatch shall have and retain all worldwide rights, title, and interest in and to the Software, including any Fixes, and Updates, any modifications made to the foregoing by whoever made feedback related to the above, and the Documentation. Customer hereby assigns to dbWatch any interest it may have, or may obtain, in the foregoing, free of confidentiality restrictions.

5. MAINTENANCE AND SUPPORT

5.1 Maintenance

Subject to payment by the Customer of the appropriate fees, dbWatch will provide the maintenance services for the Software as described below.

During the period where Customer is provided Maintenance, Customer shall be offered all Releases of the Software of all parts and modules the Customer has a fully paid up subscription for, free of additional charge (other than any taxes and duties that may be imposed). By utilizing the dbWatch Support Web Site, the Customer's designated support contacts will be notified about Releases as they become available. Work required to implement an Update is the sole responsibility of the Customer. dbWatch may provide, for a fee, services to assist in this process if requested by the Customer.

5.2 Support

Subject to payment by the Customer of the appropriate fee, dbWatch shall provide Remote Support services to the Customer's designated technical support contacts concerning the use and performance of the licensed Software. "Remote Support" means technical assistance concerning the use of the Software via email provided by dbWatch during its regular business hours between 0800 and 1700 Norwegian Time Monday thru Friday, excluding weekends and Norwegian holidays.

dbWatch shall exercise commercially reasonable efforts to correct any Error reported by Customer in the Software.

dbWatch will provide technical support only for the most recent version of the Software and will provide support for the highest Release of the last prior Version of the Software for a period (not to exceed twenty-four (24) months) following the General Availability of the new Version. Technical support for the prior Version may not include Updates or code-level fixes.

dbWatch shall have no obligation of any kind to provide maintenance and support services for problems in the operation or performance of the Software caused by any of the following (each a "Customer-Generated Error"): (a) software or hardware products not recommended or specified by dbWatch; (b) Customer's failure to properly maintain Customer's site and equipment on which the Software is installed; © alterations to Customer's site or equipment made by Customer or a third party after installation of the Software.

If dbWatch determines that it is necessary to perform maintenance and support services for a problem caused by a Customer-Generated Error, dbWatch will notify Customer thereof as soon as dbWatch is aware of such Customer-Generated Error, and dbWatch will have the right to invoice Customer at dbWatch's then-current rates for time and materials for all such maintenance and support services performed by dbWatch.

5.3 Other Services

dbWatch may, in its sole discretion, perform installation and other additional services for Customer as requested by Customer in accordance with the terms and conditions of this Agreement. dbWatch will invoice Customer at dbWatch's then-current rates for time and materials for all such additional services performed by dbWatch.

6. PAYMENTS AND AUDITS

6.1 License Subscription Fee

The Customer shall pay to dbWatch the License Subscription Fee in the amount of as specified in their contract with dbWatch. Payment of the License Subscription Fee will provide the Customer with a license to use the Software as set out in this Agreement for a term of 12 months. The Customer is entitled to prolong the license period for an additional 12-month period as set out in clause 12.1, provided that the applicable License Subscription Fees for such additional periods are paid to dbWatch.

6.2 Payment Terms and Taxes

Any overdue payments shall bear a late payment fee of one and a half percent (1.5%) per month, or if lower, the then-current late payment interest rate, pursuant to the Norwegian Act on late payment Interest. Customer will be responsible for and will promptly pay and agrees that dbWatch Software or its payment solution provider may charge the Customer's credit or debit card all taxes of any kind (including but not limited to sales and use taxes) associated with this Agreement or Customer's receipt or use of the Software and services, except for taxes based on dbWatch's net income.

6.3 Certification

At dbWatch's written request, not more frequently than annually, Customer shall furnish dbWatch with a signed certification: (i) verifying that the Software is being used pursuant to the provisions of this Agreement; and (ii) listing the locations, types, and serial numbers and names of users of all equipment upon which the Software is run.

6.4 Audit

dbWatch may, at its own expense, audit the Customer's use of the Software. Any such audit shall be conducted during regular business hours at Customer's facilities and shall not unreasonably interfere with Customer's business activities. If an audit reveals that the Customer has underpaid license subscription fees to dbWatch, the Customer shall be invoiced for any such underpaid fees according to dbWatch's latest prices for such software. If the underpaid fees exceed 2% of the license subscription fees paid, then the Customer shall also

pay dbWatch's reasonable costs of conducting the audit. Audits shall be conducted no more than once annually.

7. WARRANTY

7.1 Limited Software Warranty

The following shall be Customer's sole and exclusive remedy and dbWatch's entire liability for any breach of the foregoing. dbWatch warrants that for a period of thirty (30) days after the Effective Date that the Software: (a) will be free from defects in materials and workmanship under regular use; and (b) the Software will function substantially in accordance with the Documentation. This warranty covers only problems reported to dbWatch during the warranty period. The customer may perform acceptance testing of the Software so long as the acceptance period is within the warranty period and the intent of the acceptance testing is to determine that the Software will function substantially in accordance with the Documentation. dbWatch will, at its sole option and expense, promptly repair or replace any Software which fails to meet this limited warranty or, if dbWatch is unable to repair or replace the Software, refund to Customer the applicable fees, if any, already paid by Customer upon return of the non-conforming Software to dbWatch.

7.2 Disclaimer of Warranties

Except for the express warranty set forth in this section (7), dbWatch makes no warranties, expressed or implied, with respect to the Software, the Maintenance and Support Services, or any other materials (tangible or intangible) or services supplied by dbWatch, and dbWatch hereby expressly disclaims any implied warranties, including without limitation, any implied warranties of merchantability, fitness for a particular purpose, non-interference, accuracy of data and non-infringement.

7.3 Third-Party Software

dbWatch acknowledges that a portion of the Software provided to Customer under this Agreement contains a third-party code. dbWatch represents and warrants that dbWatch has the legal rights to license such third-party code and that the Software will be fully supported in accordance with the Maintenance and Support Services.

8. INDEMNIFICATION

8.1 Infringement Indemnity

dbWatch will indemnify Customer and, at its option, defend any action brought against Customer to the extent that it is based upon a claim by a third party that the Software, as provided by dbWatch to Customer under this Agreement and used within the scope of this Agreement, infringes any Norwegian, copyright, trademark, trade secret, or any other proprietary right of any kind, and will pay any costs, damages and reasonable attorneys' fees and court costs attributable to such claim that are awarded against Customer, provided that Customer: (a) notifies dbWatch in writing of the claim within ten (10) days after becoming aware of such claim; (b) grants dbWatch sole control of the defense and settlement of the

claim if dbWatch assumes such defense; and © provides dbWatch with all assistance, information, and authority required for the defense and settlement of the claim.

8.2 Injunctions

If Customer's use of the Software hereunder is, or in dbWatch's opinion is likely to be, enjoined due to the type of infringement specified in Section 8.1 above, dbWatch may, at its sole option and expense: (a) procure for Customer the right to continue using such Software under the terms of this Agreement; (b) replace or modify such Software or have it replaced or modified so that it is non-infringing and substantially equivalent in function to the enjoined Software; or © if options (a) and (b) above cannot be accomplished despite dbWatch's best efforts, then dbWatch may terminate Customer's rights and dbWatch's obligations hereunder with respect to such Software.

8.3 Exclusions

Notwithstanding the terms of Section 8.1 and 8.2, dbWatch will have no liability for any infringement claim of any kind to the extent it results from: (a) modification of the Software made other than by dbWatch; (b) the combination, operation, or use of any Software supplied hereunder with equipment, devices or software not supplied by dbWatch to the extent such a claim would have been avoided if the Software was not used in such combination; © failure of Customer to use updated or modified Software provided by dbWatch to avoid the infringement; (d) unauthorized or unintended use of the Software; (e) failure by Customer to take all reasonable action to prevent or mitigate losses, damages, costs, and expenses; or (f) compliance by dbWatch with designs, plans or specifications furnished by or on behalf of Customer. Customer shall indemnify, defend and hold dbWatch harmless against any expense, judgment or loss for alleged infringement of any patents or copyrights or misappropriation of trade secrets that result from dbWatch's compliance with Customer's designs, specifications or instructions.

8.4 Sole Remedy

The provisions of this Section 8 set forth dbWatch's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement of intellectual property rights of any kind.

8.5 Indemnity by Customer

Customer will indemnify dbWatch and, at its option, defend any action brought against dbWatch arising out of or related to (a) any claim of infringement or misappropriation of any intellectual property to the extent that such infringement or misappropriation is caused by actions taken by Customer, (b) Customer's violation or alleged violation of any applicable laws or © the conduct of Customer's business.

9. CONFIDENTIALITY

9.1 Definition

"Confidential Information" means: (a) the Software; (b) the terms of this Agreement, and © any business or technical information of dbWatch or Customer, including but not limited to any information relating to dbWatch's or Customer's product plans, designs, costs, product prices and names, finances, Customer's evaluation or opinion of dbWatch's performance under the Agreement, marketing plans, business opportunities, personnel, research, development or know-how, in either written or oral form, that is designated by the disclosing party as "confidential" or "proprietary."

9.2 Exclusions

Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving party; (b) is known to the receiving party at the time of disclosure without an obligation of confidentiality; © is independently developed by the receiving party without the use of the disclosing party's Confidential Information; (d) the receiving party rightfully obtains from a third party without restriction on use or disclosure, or (e) is disclosed with the prior written approval of the disclosing party.

9.3 Use and Disclosure Restrictions

During the term of this Agreement, and for (i) perpetuity with respect to the Software, and (ii) a period of five (5) years after any termination of this Agreement with respect to any Confidential Information other than the Software, each party will not use the other party's Confidential Information except as permitted herein, and will not disclose such Confidential Information to any third party except to employees and consultants as is reasonably required in connection with the exercise of its rights and obligations under this Agreement (and only subject to binding use and disclosure restrictions at least as protective as those set forth herein executed in writing by such employees and consultants). However, each party may disclose Confidential Information of the other party: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the disclosing party gives reasonable notice to the other party to contest such order or requirement; and (b) on a confidential basis to legal or financial advisors.

9.4 Disclosure of Agreement Terms

Notwithstanding Section 9.3, either party may disclose the terms of this Agreement pursuant to an acquisition, merger, or sale of substantially all of such party's assets, financing, or as required by securities laws or regulations; provided that the receiving party shall be bound to a confidentiality agreement to the extent possible.

9.5 Security of Customer Systems

In performing pursuant to this Agreement, dbWatch, its employees, agents, subcontractors, and any other individual permitted by dbWatch to access any computer system, network, file, data, or software owned by or licensed to Customer will: (i) use and take all reasonable security measures necessary to protect the security of all such computer systems, networks, files, data and software; and (ii) abide by the system security requirements and guidelines of Customer.

10. Not Used

11. LIMITATION OF LIABILITY

11.1 Total Liability

dbWatch's cumulative liability to Customer, from all causes of action and all theories of liability, will be limited to and will not exceed the annual amount paid to dbWatch by Customer pursuant to this Agreement for the Software, which is the subject of the cause of action or claim. The limitation of the liability shall apply notwithstanding the failure of any limited remedy to fulfill its essential purpose.

11.2 Exclusion of Damages

In no event will dbWatch be liable to Customer for any special, indirect, incidental, or consequential damages (including loss of use, data, business or profits) arising out of or in connection with this Agreement or the use or performance of the Software or services, whether such liability arises from any claim based upon contract, warranty, tort (including negligence), product liability or otherwise, and whether or not dbWatch has been advised of the possibility of such loss or damage.

11.3 Basis of Bargain

The parties expressly acknowledge and agree that dbWatch has set its prices and entered into this Agreement in reliance upon the limitations of liability specified herein, which allocate the risk between dbWatch and Customer.

12. TERM AND TERMINATION

12.1 Term and Termination for Convenience

Unless terminated earlier in accordance with the terms of this Agreement, this Agreement will begin on the Effective Date and will remain in effect for an initial period of 12 months (the "Initial Term") after which it will, provided that the Customer pays the applicable Subscription Fees, automatically renew for an additional 12 month period (each such period to be called a "Renewal Period") unless terminated in writing by either Party at least 30 days prior to the expiry of the Initial Term or any subsequent Renewal Period.

12.2 Termination for Breach

Each party will have the right to terminate this Agreement or any Software license granted hereunder if the other party materially breaches any material term of this Agreement and fails to cure such breach within thirty (30) days after written notice thereof.

12.3 Effect of Termination

Upon any termination of this Agreement, Customer will, at dbWatch's request, promptly return the Software to dbWatch or destroy the Software and all copies and portions thereof, in

all forms and types of media, and provide dbWatch with an official written certification, certifying to Customer's compliance with the foregoing.

12.4 Non-exclusive Remedy

Termination of this Agreement by either party will be a non-exclusive remedy for breach and will be without prejudice to any other right or remedy of such party.

13. GENERAL

13.1 Assignment

The customer will have no right to assign this Agreement, in whole or in part, without dbWatch's prior written consent. Any attempt to assign this Agreement without such consent will be null and void. dbWatch may assign this Agreement to any entity.

13.2 Governing Law and Jurisdiction

This Agreement will be governed by and construed in accordance with the laws of Norway. Any legal action or proceeding arising under this Agreement will be brought exclusively in the courts in Oslo, Norway and the parties hereby consent to personal jurisdiction and venue therein.

13.3 Severability

If, for any reason, a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible, and the other provisions of this Agreement will remain in full force and effect.

13.4 Waiver

The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

13.5 Force Majeure

Neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including but not limited to labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, riot, act of God or governmental action.

13.6 Relationship of Parties

The parties to this Agreement are independent contractors, and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

13.7 Publicity

At the time of Agreement execution, Customer concurs with dbWatch using the Customer and Customer's logo as a reference in its sales and marketing activities. The customer also agrees that its name may be included in dbWatch's customer lists and provide quotes from Customer's executive team for dbWatch's website and for various marketing documents.

13.8 Entire Agreement

This Agreement contains the complete understanding and agreement of the parties and supersedes all prior or contemporaneous agreements or understandings, oral or written, relating to the subject matter herein. Any additional or contrary terms and conditions that may appear on a Customer's purchase order submitted to dbWatch for Software licenses and/or services provided by dbWatch will be considered to be null and void. Any waiver, modification, or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of the parties.

13.9 Export Control

The customer agrees to comply with applicable laws, regulations, rulings, and executive orders on exportation (not only Norwegian laws and regulations) and with all applicable laws on the import of software and technology.