

# DASSAULT SYSTEMES OFFERING SPECIFIC TERMS (OST) FOR Reqtify® and ControlBuild® Release 2011-2 LICENSED PROGRAMS

This OST (Offering Specific Terms) and the terms incorporated herein by reference (including terms referenced on a website) are an integral part of the license and online services agreement between DS and Customer ("Agreement"), which refers to this OST. In the event of a discrepancy, inconsistency or contradiction between this OST and the other terms of the Agreement, the provisions of this OST shall prevail, but only with respect to the Licensed Programs to which this OST applies. Customer acknowledges that it has full knowledge of all the terms of this OST and those incorporated herein by reference.

## 1. PRICING STRUCTURES

Licenses and Support Services for the Licensed Programs to which this OST applies are granted according to the pricing structures mentioned in the related Transaction Document. Standard pricing structures are defined in the section "DEFINITIONS" of this OST. Other pricing structures may be made available on a case by case basis.

## 2. LICENSING SCHEMES AND GEOGRAPHIC SCOPE

### 2.1. GENERAL RULES

Licenses for the Licensed Programs to which this OST applies may be granted according to one of the following licensing schemes (specifying the authorized use), as specified in the Product Portfolio if available, and as determined in the applicable Transaction Document:

- Machine (or node-lock) Based
- Concurrent (or floating) Based
- Named User Based

Licenses for the Licensed Programs to which this OST applies are granted for use on Machines by the Users (and Extended Enterprise Users, as applicable) only in the country for which the licenses are ordered. However, (i) Users, whose usual workplace is located in the same country as the country where such use of the Licensed Programs has been authorized, may use the Licensed Programs in any other country (subject *inter alia* to the export and re-export laws and regulations provisions of the Agreement) for purposes of a business trip of a maximum of thirty (30) consecutive days and (ii) DS may authorize, on a case-by-case basis, the use of certain Licensed Programs by the Users (and Extended Enterprise Users, as applicable) on a Remote Access mode.

Concurrent Based licensing may be licensed for Single Site or Multi-Site usage, subject *inter alia* to the export and re-export laws and regulations provisions of the Agreement and applicable provisions governing the above licensing structures.

### 2.2. SPECIFIC PROVISIONS FOR CERTAIN DS OFFERINGS

N/A

## 3. OTHER PERMITTED USES FOR DS OFFERINGS

**USE FOR CERTAIN SERVICES.** Except for Development Tool Kits, Customer is authorized to use the Licensed Programs for added-value engineering or implementation services. Added-value engineering or implementation services are services to deliver to a third party end user any deliverable generated specifically for said third party end user from use by Customer of the Licensed Programs. In any event, Customer may not (1) use the Licensed Programs to develop software code for (i) general distribution by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element, or (ii) any services that do not add value attributable to the intervention of specific human skills, such as, without limitation, in a data services operation or as an application service provider, or (2) install and/or operate and/or give access to the Licensed Programs on any hardware and/or software environment owned by or under control of any third party unless otherwise expressly authorized in the Agreement, or (3) represent or imply to any party that it is an authorized or

certified provider of services for DS. Customer shall indemnify, defend and hold harmless DS against any claim, expense, judgment, damage or loss (including reasonable attorneys' fees) which arises out of or in any way relates to Customer's use of the Licensed Programs with third party end users.

#### 4. SPECIFIC TERMS FOR THIRD PARTY SOFTWARE

The specific terms relating to the use of certain third party software components or products not developed by or for a DS Group Company and granted to Customer to be used in connection with or within a DS Offering are defined hereafter:

##### 4.1 OPEN SOURCE SOFTWARE

The DS Offerings may include open source software components. Whenever notices (such as acknowledgment, copies of licenses or attribution notice) are required by the original licensor, such notices are included in the Documentation of the DS Offerings.

The following components are not distributed and licensed under the terms of the Agreement but under the terms of their original licenses set forth in the Documentation and/or notice files in the DS Offerings themselves. Source code for these components is available upon request.

Under the GNU LESSER GENERAL PUBLIC LICENSE version 2:

Libiconv

Whenever distributed, the following software are distributed and licensed under the terms of the GNU General Public License:

Mingw (Portions, see <http://www.mingw.org/license>)

Cygwin 2.0 beta (Portions, see <http://cygwin.com/license.html>)

Except for components mentioned in the section EXCLUSIONS below, the warranty and Support Services provided by DS under the Agreement apply to all such open source software components and shall be provided by DS and not by the original licensor, but only for the use of the DS Offerings that is in compliance with the terms of the Agreement, and in conjunction with the DS Offerings. The original licensors of said open source software components provide them on an "as is" basis and without any liability whatsoever to Customer.

##### 4.2 ADDITIONAL THIRD PARTY SOFTWARE TERMS

The following terms apply in addition to the Agreement:

None

##### 4.3 EXCLUSIONS

The warranty and Support Services provided by DS under the Agreement are not applicable to open source software components listed hereunder:

Mingw (Portions, see <http://www.mingw.org/license>)

Cygwin 2.0 beta (Portions, see <http://cygwin.com/license.html>)

#### 5. DEFINITIONS

The following definitions are added to the section "Definitions" of the Agreement.

**Configuration** or **Package** means a standard set of DS Offerings which are bundled together. The DS Offerings composing such Configuration or Package shall only be operated together.

**Customer's Site** means the specific physical address of Customer's own facility identified in the Transaction Document that may consist of one or more buildings within a radius of one kilometer of where the Licensed Program is first installed and put into use.

**Development Tool Kit** means a DS Offering specifically designed for application or content development. A Development Tool Kit is either identified (i) with "CAA" or "ENOVIA Studio" in the DS Offering name, or (ii) in the Transaction Document and/or the Product Portfolio.

**Extended Enterprise User** means an employee of Customer's affiliate(s), supplier(s) and/or customer(s) authorized to use Customer's DS Offering for the sole and exclusive purpose of enabling the Extended Enterprise User(s) to conduct business with Customer. The use of the

DS Offering by any such Extended Enterprise User(s) 1) shall be solely limited to use (a) as configured and deployed by Customer and (b) in connection with the Extended Enterprise User's performance of services for and on behalf of Customer, and 2) shall exclude any use by Extended Enterprise User (a) for its own account or a third party's account, or (b) for the purpose of modifying, otherwise using, maintaining or hosting the DS Offering. Extended Enterprise Users are authorized if so specified in the Product Portfolio.

**Machine** means a computer equipment on which a Licensed Program is executed (1) (a) belonging to Customer or under its sole control or supervision and (b) located on Customer's premises (provided when applicable that Users and Extended Enterprise Users, as applicable, may occasionally use laptop computers outside Customer's premises) or (2) operated by a third party service provider as specifically authorized in the Agreement solely for and on behalf of Customer, in the same country.

**Multi-Site License** means, that Customer is authorized to install and use the Licensed Program to which this OST applies on Machines in several of the Customer's own facilities located in the same geographic region only (i.e. APAC or EMEA or Americas).

**Product Portfolio** means a set of information related to the DS Offerings available at <http://www.3ds.com/terms/product-portfolio>.

**Remote Access** means, if so specified in the Product Portfolio, that Users and/or Extended Enterprise Users may access and use the DS Offering remotely via the Internet from any country (subject inter alia to the export and re-export laws and regulations provisions of the Agreement).

**Single Site License** means that Customer is authorized to install and use the Licensed Program to which this OST applies only on Machines within Customer's Site as identified in the Transaction Document and in the country for which the license is ordered.

**User** means any (a) Customer's employee, or (b) employee of Customer's consultant(s) or subcontractor(s) (i) who accesses a DS Offering, (ii) who works for the exclusive internal needs of Customer and (iii) whose usual workplace is located within Customer's premises. For Academic Use of DS Offering, **User** means (i) any individual who works for Customer and is dedicated either to education or research or (ii) any individual regularly enrolled as a *bona fide* student in Customer's academic program.

## **PRICING STRUCTURES**

**ALC** means Annual License Charge which is a yearly charge. For the first year of each license of each Licensed Program, ALC is due together with the PLC or TBL, as applicable. Payment of the ALC for a Licensed Program entitles Customer to i) Support Services for the Licensed Program for one (1) year and ii) a license (subject to the conditions set forth in the Agreement) to use the Release(s) of such Licensed Program made available by DS during such year, in lieu of the license(s) on the previous Release(s) of the Licensed Program delivered to Customer. The applicable price for the ALC for any given year is the price of the previous year plus the last percentage of increase applicable to the license of a Licensed Program in a given country, as published at <http://www.3ds.com/terms/price> at least ninety (90) days before renewal date. However, such increase shall not exceed the increase which would have resulted from the revision of the price of the ALC according to the applicable price index since the date of the last price increase published by DS at <http://www.3ds.com/terms/price> for the related Licensed Program.

**PLC** means Primary License Charge applicable to each license of a Licensed Program ordered under the PLC/ALC pricing structure. The PLC is a one-time and non-refundable charge. Payment of the PLC for a Licensed Program provides Customer with a perpetual license (subject to the conditions set forth in the Agreement) to use the Release of such Licensed Program made available by DS on the Effective Date of the license.

**TBL** means Term Based License charge applicable to each license of a Licensed Program ordered under the TBL/ALC pricing structure. The TBL is a one-time and non-refundable charge. Payment of the TBL for a Licensed Program provides Customer with a license for a period as described in the Product Portfolio and in the Transaction Document (subject to the conditions set forth in the Agreement) to use the Release of such Licensed Program made available by DS on the Effective Date of the license. "TBLx" is a TBL for a period of "x" years. As an example, "TBL2" is a TBL for a period of two (2) years. TBL is not automatically renewable.

**YLC** means the yearly charge for use of a DS Offering, subject to the conditions set forth in the Agreement. For Licensed Programs, YLC entitles Customer to i) a one (1) year license to use the Release of a Licensed Program and its subsequent Release(s), if any, as made available by DS during such year, in lieu of the license(s) on the previous Release(s) of such Licensed Program, and ii) Support Services for the Licensed Program for one (1) year. For Online Services, YLC entitles Customer to i) a one (1) year use of the Online Services and ii) Support Services for such Online Services for one (1) year. Customer is deemed to have accepted to renew any DS Offering for one (1) year and to pay YLC at the then applicable price, if Customer continues to use of such DS Offering(s) after the anniversary date of the DS Offering. The applicable price for the YLC for any given year is the price of the previous year plus the last percentage of increase applicable to the use of a DS Offering in a given country, as published at <http://www.3ds.com/terms/price> at least ninety (90) days before renewal date. However, such increase shall not exceed the increase which would have resulted from the revision of the price of the YLC according to the

applicable price index since the date of the last price increase published by DS at <http://www.3ds.com/terms/price> for the related DS Offering.

**QLC or QRC** means the quarterly charge for use of a DS Offering, subject to the conditions set forth in the Agreement. For Licensed Programs, QLC or QRC entitles Customer to i) a three (3) months' license to use the Release of a Licensed Program and its subsequent Release(s), if any, as made available by DS during such quarter, in lieu of the license(s) on the previous Release(s) of such Licensed Program, and ii) Support Services for the Licensed Program for such three months period. For Online Services, QLC or QRC entitles Customer to i) a three (3) months' use of the Online Services and ii) Support Services for such Online Services for a three months period. QLC is not automatically renewable, unlike QRC. The applicable price for the QRC for any given quarter is the price of the previous quarter plus the last percentage of increase applicable to the use of a DS Offering in a given country, as published at <http://www.3ds.com/terms/price>, at least ninety (90) days before renewal date. However, such increase shall not exceed the increase which would have resulted from the revision of the price of the QRC according to the applicable price index since the date of the last price increase published by DS at <http://www.3ds.com/terms/price> for the related DS Offering.

## **LICENSING SCHEMES**

**Concurrent (or floating) Based.** Use of a DS Offering in Concurrent Based mode is authorized for a maximum number of simultaneous Users and/or Extended Enterprise Users, as applicable.

**Extended Enterprise Named User** means an Extended Enterprise User identified with a unique username and password to use the DS Offering from a single machine at any given time.

**Machine (or node-lock) Based.** Use of a DS Offering in Machine Based mode is authorized on the number of Machines for which the DS Offering has been ordered.

**Named User** means a User identified with a unique username and password to use the DS Offering from a single machine at any given time.

**Named User Based.** Use of a DS Offering in Named User Based mode is authorized for the maximum number of Named Users and/or Extended Enterprise Named Users, as applicable, defined in related Transaction Document. If so specified in the Product Portfolio, certain DS Offerings used in Named User Based mode can be run on several machines at the same time, within the limit of the consumption capacity of the Token Based licenses. Customer shall not use any automated program or "user agent" program or utilities for multiple Users and/or Extended Enterprise Users, as applicable, and ensure that Named Users and Extended Enterprise Named Users do not share or use the same username and password. Customer may replace Named User(s) or Extended Enterprise Named User(s), as applicable, as necessary to reflect permanent personnel change(s), provided that the number of individuals authorized to use the DS Offering does not exceed the maximum number of rights granted to Customer for such DS Offering. Upon DS's request, Customer shall provide DS with a signed document listing (i) the number of Named Users and Extended Enterprise Named Users, as applicable, (ii) the type of use of the DS Offerings, and (iii) the locations and types of the systems on which DS Offerings operate or Customer has installed the DS Offering(s) as applicable. DS may provide Customer with one or more utilities, either included within the DS Offering(s) or separately, for the purpose of analyzing access right(s) and utilization, to establish usage by Customer. In such case, Customer shall provide, if applicable, the unedited and unmodified output file(s) and/or report(s) resulting from the operation(s) of such utility(ies), along with a signed declaration that the file(s) is(are) representative of actual DS Offering(s) usage. Customer is responsible for implementing all reasonable means to monitor its compliance with the terms of the Agreement.

## **6. TRADEMARKS**

Reqtify, ControlBuild, ENOVIA and the Dassault Systèmes logo are trademarks or registered trademarks of Dassault Systèmes or its subsidiaries in the US and/or in other countries.

DS Offerings and services names may be trademarks or service marks of Dassault Systèmes or its subsidiaries.