

SPEEDMENT, INC.
ENTERPRISE LICENSE AND SUPPORT SERVICES SUBSCRIPTION AGREEMENT
VERSION 2018.1

This **ENTERPRISE LICENSE AND SUPPORT SERVICES SUBSCRIPTION AGREEMENT (“Agreement”)** applies to the provision by Speedment, Inc., a Delaware corporation, with offices located 470 Ramona Avenue, Palo Alto, CA 94301 (“**Speedment**”), of the Speedment enterprise edition software (“**Software**”) and support services for the Software (“**Support Services**”) to the person or entity (“**Customer**”) identified on an applicable ordering document (“**Order Form**”) pursuant to which Customer has purchased a subscription (“**Subscription**”) for a license to the Software and the right to receive Support Services, as set forth on the Order Form entered into between Customer and Speedment or between Customer and a third party authorized to resell the Software and Support Services (“**Authorized Reseller**”).

1. LICENSE GRANTS AND DELIVERY.

1.1 License Grants. Subject to the terms and conditions of this Agreement and complete payment of any and all applicable fees, Speedment agrees to grant, and does hereby grant to Customer during the Subscription Term (as defined in Section 8.1 below) and for the restricted scope of this Agreement, solely for Customer’s internal business operations, a limited, non-exclusive, non-transferable right and license (without the right to grant or authorize sublicenses) to: (i) install and use the object code version of the Software, subject to any quantitative limitations set forth in the applicable Order Form; (ii) use, and distribute internally a reasonable number of copies of the end user documentation, if any, provided with the Software (“**Documentation**”), provided that Customer must include on such copies all Speedment trademarks, trade names, logos and notices present on the Documentation as originally provided to Customer by Speedment; (iii) permit third party contractors performing services on Customer’s behalf, to use the Software and Documentation as set forth in (i) and (ii) above, provided that such use must be solely for Customer’s benefit, and Customer shall be responsible for all acts and omissions of such contractors in connection with their use of the Software.

1.2 Reservation of Rights: Restrictions. As between Speedment and Customer, Speedment owns all right title and interest in and to the Software and any derivative works thereof, and except as expressly set forth in Section 1.1 above, no other license to the Software is granted to Customer by implication, estoppel or otherwise. Customer agrees not to: (i) prepare derivative works from, modify, copy or use the Software in any manner except as expressly permitted in this Agreement or applicable law; (ii) reverse engineer or decompile, decrypt, disassemble or otherwise reduce any Software or any portion thereof to human-readable form, except and only to the extent any such restriction is prohibited by applicable law, (iii) transfer, sell, rent, lease, distribute, sublicense, loan or otherwise transfer the Software in whole or in part to any third party; (iv) use the Software for providing time-sharing services, any

software-as-a-service offering (“**SaaS**”), service bureau services or as part of an application services provider or other service offering; (v) alter or remove any proprietary notices in the Software; or (vi) make available to any third party any analysis of the results of operation of the Software, including benchmarking results, without the prior written consent of Speedment.

1.3 Delivery: License Key and Acceptance. Speedment delivers all Software electronically. For Speedment’s accounting purposes, specific Software shall be deemed “delivered,” and the Subscription Term of such Software shall commence, on the date that Speedment provides Customer with a license key enabling use of the Software. Upon written request, Customer shall provide Speedment a “Delivery Acknowledgement Letter” in a format reasonably requested by Speedment acknowledging delivery of the Software. The Software will be deemed to have been accepted by Customer upon delivery.

1.4 Government Rights. The Software is “Commercial Computer Software,” as that term is defined in 48 C.F.R. 2.101, and as the term is used in 48 C.F.R. Part 12, and is a Commercial Item comprised of “commercial computer software” and “commercial computer software documentation”. If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement, as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulation (“FAR”) and its successors. If acquired by or on behalf of any agency within the Department of Defense (“DOD”), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202-3 and 48 C.F.R. 227.7202-4 of the DOD FAR Supplement (“DFARS”) and its successors, and consistent with 48 C.F.R. 227.7202. This U.S. Government Rights clause, consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software,

computer software documentation or technical data related to the Software under this Agreement and in any Subcontract under which this commercial computer software and commercial computer software documentation is acquired or licensed.

1.5 Export Control. Customer acknowledges that the goods, software and technology acquired from Speedment are subject to U.S. export control laws and regulations, including but not limited to the International Traffic In Arms Regulations (“ITAR”) (22 C.F.R. Parts 120-130 (2010)); the Export Administration Regulations (“EAR”) (15 C.F.R. Parts 730-774 (2010)); the U.S. anti-boycott regulations in the EAR and U.S. Department of the Treasury regulations; the economic sanctions regulations and guidelines of the U.S. Department of the Treasury, Office of Foreign Assets Control, and the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001), as amended. Customer confirms that it is now and will remain in the future compliant with all such export control laws and regulations, and will not export, re-export, otherwise transfer any Speedment goods, software or technology or disclose any Speedment software or technology to any person contrary to such laws or regulations. Customer acknowledges that remote access to the Software may in certain circumstances be considered a re-export of Software, and accordingly, may not be granted in contravention of U.S. export control laws and regulations.

2. SUPPORT SERVICES.

2.1 Provision. During the Subscription Term, Speedment will provide Customer with Support Services for the Software in accordance with Speedment’s support services policy set forth at <http://www.speedment.com/support>, as the same may be reasonably modified by Speedment from time to time (“**Support Services Policy**”).

2.2 Support Services Policy. Speedment reserves the right to reasonably modify the Support Services Policy during the Subscription Term. However, Speedment agrees not to materially diminish the level of Support Services during the Subscription Term. The effective date of each version of the Support Services Policy will be stated therein, and Speedment will retain an archived copy of each version that will be made available to Customer upon request. The Support Services Policy is hereby incorporated into these terms and conditions by this reference. At the request of Customer, a current copy of the Support Service Policy may be attached hereto as Exhibit A.

2.3 Restriction. Support Services are provided to Customer solely for Customer’s internal use, and Customer may not use the Support Services to supply any consulting, support or training services to any third party. Customer agrees and acknowledges that Customer is not

obtaining any intellectual property right in or to the Support Services or any Speedment materials other than the rights of use specifically granted in this Agreement.

3. INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

3.1 Obligation. Speedment will, at its expense (i) defend, or at its option settle, a claim brought against Customer by an unaffiliated third party alleging that Customer’s use of the Software during the Subscription Term infringes such party’s patent registered in the United States, or any copyright or trademark of such party registered in the jurisdiction of Customer’s use of the Software, or makes intentional, unlawful use of such third party’s trade secret (each an “**Infringement Claim**”) and (ii) pay, hold harmless and indemnify Customer against any (1) amount agreed to be paid as settlement of such Infringement Claim consented to by Speedment or (2) damages finally awarded to such third party by a court of competent jurisdiction as the result of such Infringement Claim.

3.2 Certain Remedies. If an Infringement Claim occurs, or in Speedment’s opinion is reasonably likely to occur, Speedment, at its expense and at its sole discretion, may, in addition to its obligations under Section 3.1, either: (i) procure the right to allow Customer to continue to use the applicable Software; or (ii) modify or replace the applicable Software or infringing portions thereof to become non-infringing; or (iii) if neither (i) nor (ii) is commercially practicable, terminate Customer’s Subscription to the applicable Software and refund to Customer any pre-paid, unused fees paid by Customer to Speedment for such Subscription.

3.3 Exclusions. Speedment will have no obligation to Customer under this Section 3 to the extent any Infringement Claim or resulting award is based upon or results from: (i) Customer’s use of any version of the Software not obtained directly from Speedment; (ii) the failure of Customer to use an update of the Software made available by Speedment that would have avoided the Infringement Claim; (iii) a modification of the Software that is not performed by Speedment; (iv) the combination, operation, or use of the Software with any other products, services or equipment not provided by Speedment; (v) specifications Customer provides to Speedment for any services; (vi) damages attributable to the value of the use of a non-Speedment product or service or (vii) any third party software. Customer will reimburse Speedment for any expenses, costs and/or damages that result from any of the actions or situations described in 3.3(i) – (vi) above.

3.4 Conditions. The obligations of Speedment in Section 3 are conditioned upon Customer (i) notifying

Speedment promptly of any threatened or pending Infringement Claim, provided that failure to provide such notice will only relieve Speedment of its obligations under this Section 3 to the extent its ability to defend or settle an applicable Infringement Claim is prejudiced by such failure to provide notice (ii) tendering to Speedment sole control over the defense and settlement of the Infringement Claim and (iii) giving Speedment, at Speedment's expense, reasonable assistance and information requested by Speedment in connection with the defense or settlement of the Infringement Claim. Customer's counsel will have the right to participate in the defense of the Infringement Claim, at Customer's own expense. Customer will not, without the prior written consent of Speedment, make any admission or prejudicial statement, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened Infringement Claim.

3.5 **Exclusive Remedy.** THE FOREGOING PROVISIONS OF THIS SECTION 3 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF SPEEDMENT, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT BY THE SOFTWARE AND/OR THE SERVICES.

4. PAYMENT AND TAXES.

4.1 **Payment.** Customer agrees to pay Speedment, or, if applicable, the Authorized Reseller, the fees for the Subscription stated on the applicable Order Form. Unless otherwise specified on an Order Form, all invoices will be paid in U.S dollars and are due within thirty (30) days of receipt. Payments will be made without right of set-off or chargeback. If Customer does not pay the invoices when due, Speedment may charge interest at the rate of one percent (1%) per month on the unpaid balance, or the highest rate permitted under applicable law, whichever is less.

4.2 **Taxes.** In addition, Customer will pay Speedment, or, if applicable, the Authorized Reseller, all sales, use, and excise taxes that are levied upon the delivery or use of the Software and/or Support Services; unless Customer provides Speedment, or, if applicable the Authorized Reseller, a valid state sales/use/excise tax exemption certificate or Direct Pay Permit. Customer will pay all import, export, value added or other tax or duty, and all government permit, withholding or license fees, and custom or similar fees, that are levied upon the delivery or use of the Software and/or Support Services.

5. CONFIDENTIAL INFORMATION.

5.1 **Confidential Information.** Both parties acknowledge that, in the course of performing this Agreement, they may obtain information relating to products (such as goods, services, and software) of the other party, or relating to the parties themselves, which is of a confidential and proprietary nature ("**Confidential Information**"). Confidential Information includes materials and all communications concerning Speedment's or Customer's business and marketing strategies including but not limited to employee and customer lists, customer profiles, project plans, design documents, product strategies and pricing data, research, advertising plans, leads and sources of supply, development activities, design and coding, interfaces with the Software, anything provided by Speedment in connection with its support obligations under this Agreement, including, without limitation, computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical plans and other information of the parties which by its nature can be reasonably expected to be proprietary and confidential, whether it is presented in oral, printed, written, graphic or photographic or other tangible form (including information received, stored or transmitted electronically) even though specific designation as Confidential Information has not been made. Confidential Information also includes any notes, summaries, analyses and the foregoing that are prepared by the receiving party.

5.2 **Non-use and Non-disclosure.** The parties shall at all times, both during the Subscription Term and thereafter keep in trust and confidence all Confidential Information of the other party and shall not use such Confidential Information other than as necessary to carry out its duties under this Agreement, nor shall either party disclose any such Confidential Information to third parties without the other party's prior written consent.

5.3 **Non-Applicability.** The obligations of confidentiality shall not apply to information which (i) has entered the public domain except where such entry is the result of a party's breach of this Agreement; (ii) prior to disclosure hereunder was already in the receiving party's possession without restriction; (iii) subsequent to disclosure hereunder is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information; or (iv) was developed by the receiving party without use of the Confidential Information.

5.4 **Disclosure Required by Law.** Section 5.2 above notwithstanding, each party may comply with an order from a court or other governmental body of competent

jurisdiction and disclose the other party's Confidential Information in compliance with that order only if such party: (i) unless prohibited by law, gives the other party prior notice to such disclosure if the time between that order and such disclosure reasonably permits or, if time does not permit, gives the other party notice of such disclosure promptly after complying with that order and (ii) fully cooperates with the other party, at the other party's cost and expense, in seeking a protective order, confidential treatment, or taking other measures to oppose or limit such disclosure. Each party must not release any more of the other party's Confidential Information than is reasonably necessary to comply with an applicable order.

6. WARRANTY AND DISCLAIMER.

6.1 Warranty.

(a) Speedment warrants, to Customer only, that during the Subscription Term the Software will perform in all material respects in accordance with the Documentation. In the event of a breach of the foregoing warranty, Speedment's sole obligation, and Customer's exclusive remedy shall be for Speedment to (i) correct any failures of the Software to perform in all material respects in accordance with the Documentation or (ii) if Speedment is unable to provide such a correction within thirty (30) days of receipt of notice of the applicable non-conformity, promptly refund to Customer any pre-paid, unused fees paid by Customer to Speedment for the applicable Subscription. The warranty set forth in this Section 6.1(a) does not apply if the applicable Software or any portion thereof: (1) has been altered, except by or on behalf Speedment; (2) has not been used, installed, operated, repaired, or maintained in accordance with this Agreement and/or the Documentation; (3) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident; or (4) is used on equipment, products, or systems not meeting specifications identified by Speedment in the Documentation. Additionally, the warranties set forth herein only apply when notice of a warranty claim is provided to Speedment within the applicable warranty period specified herein and do not apply to any bug, defect or error caused by or attributable to software or hardware not supplied by Speedment.

(b) Speedment warrants that during the Subscription Term it will perform the Support Services in a professional, workmanlike manner, consistent with generally accepted industry practice, and in substantial accordance with the Support Services Policy. In the event of a breach of the foregoing warranty, Speedment's sole obligation, and Customer's exclusive remedy, shall be for Speedment to re-perform the applicable Support Services.

6.2 Warranty Disclaimer. EXCEPT AS SET FORTH IN SECTION 6.1, THE SOFTWARE AND THE

SUPPORT SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND SPEEDMENT MAKES NO OTHER WARRANTIES WHETHER EXPRESSED, IMPLIED OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE AND/OR SUPPORT SERVICES OR ANY OTHER MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, SPEEDMENT SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE SOFTWARE AND THE SUPPORT SERVICES.

7. LIMITATION OF LIABILITY.

7.1 Excluded Damages. IN NO EVENT SHALL CUSTOMER OR SPEEDMENT BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF OR FAILURE TO PERFORM THIS AGREEMENT, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.2 Damages Cap. EXCEPT WITH RESPECT TO ITS OBLIGATIONS UNDER SECTION 3.1(i) OR A BREACH OF ITS OBLIGATIONS UNDER SECTION 5, IN NO EVENT SHALL SPEEDMENT'S TOTAL, CUMULATIVE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID BY CUSTOMER TO SPEEDMENT OR AN AUTHORIZED RESELLER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

7.3 Basis of the Bargain. THE ALLOCATIONS OF LIABILITY IN THIS SECTION 7 REPRESENT THE AGREED AND BARGAINED FOR UNDERSTANDING OF THE PARTIES, AND THE COMPENSATION OF SPEEDMENT FOR THE SERVICES PROVIDED HEREUNDER REFLECTS SUCH ALLOCATIONS. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS IN ITS ESSENTIAL PURPOSE.

8. TERM AND TERMINATION.

8.1 **Subscription Term.** The initial term of Customer's Subscription shall be as set forth in the applicable Order Form. Thereafter, the term of Customer's Subscription shall automatically renew for additional one (1) year periods unless either party gives written notice to the other of its intention not to renew the Subscription at least thirty (30) days prior to the expiration of the then-current term. The initial term of a Subscription, plus any subsequent renewal term a Customer's Subscription, shall be the "Subscription Term".

8.2 **Termination.** Each party may terminate this Agreement upon giving notice in writing to the other party if the non-terminating party commits a breach of this Agreement and has failed to cure such breach within thirty (30) days following a request in writing from the notifying party to do so. Customer may terminate this Agreement for any reason or no reason, upon thirty (30) days' notice to Speedment, provided that Customer shall not be entitled to receive any refund of any amounts paid as a result of any such termination.

8.3 **Survival.** Upon the expiration or termination of this Agreement, (i) Customer shall immediately cease use of the Software and have no further rights to receive the Support Services; and (ii) Sections 3, 4, 5, 6, 7, 8.3 and 9 of this Agreement will survive.

9. GENERAL.

9.1 **Assignment.** Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except that either party may assign this Agreement in its entirety to a successor in interest in connection with a merger, acquisition or sale of all or substantially all of a party's assets. Any assignment in violation of this Section 9.1 shall be void, *ab initio*, and of no effect. Subject to the foregoing, this Agreement is binding upon, inures to the benefit of, and is enforceable by, the parties and their respective permitted successors and assigns.

9.2 **Customer Identification.** Customer consents to Speedment's identification of Customer as a user of the Software and the Support Services, on its website, through a press release issued by Speedment and in other promotional materials.

9.3 **Fees.** In any judicial proceeding between Customer and Speedment arising out of or relating to this

Agreement, the prevailing party shall be entitled to recover all reasonable expenses incurred as a result of the proceeding, including reasonable attorneys' fees.

9.4 **Force Majeure.** Except with respect to payment obligations, neither party will be liable for, or be considered to be in breach of, or in default under, this Agreement, as a result of any cause or condition beyond such party's reasonable control.

9.5 **Governing Law, Jurisdiction and Venue.**

(a) **Customers in California.** If Customer is located in California (as determined by the Customer address on the applicable Order Form), this Agreement will be governed by the laws of the State of California, without regard to its conflict of laws principles, and all suits hereunder will be brought solely in Federal Court for the Northern District of California, or if that court lacks subject matter jurisdiction, in any California State Court located in Santa Clara County.

(b) **Customers Outside of California.** If Customer is located anywhere other than California (as determined by the Customer address on the applicable Order Form), this Agreement will be governed by the laws of the State of Delaware, without regard to its conflict of laws principles, and all suits hereunder will be brought solely in Federal Court for the District of Delaware, or if that court lacks subject matter jurisdiction, in any Delaware State Court located in Wilmington, Delaware.

(c) **All Customers.** This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any action or proceeding in any of the applicable courts set forth in (a) or (b) above, based upon any alleged lack of personal jurisdiction, improper venue, *forum non conveniens*, or any similar claim or defense.

(d) **Equitable Relief.** A breach or threatened breach, by either party of Section 5 may cause irreparable harm for which the non-breaching party shall be entitled to seek injunctive relief without being required to post a bond.

9.6 **Language.** This Agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall not be binding to the parties hereto. All communications and notices to be made or given pursuant to this Agreement shall be in the English language.

9.7 **Notices.** Any notice or other communication under this Agreement given by either party to the other will be deemed to be properly given if given in

writing and delivered in person or facsimile, if acknowledged received by return facsimile or followed within one day by a delivered or mailed copy of such notice, or if mailed, properly addressed and stamped with the required postage, to the intended recipient at its address specified below the signatures on this Agreement. Either party may from time to time change its address for notices by giving the other party notice of the change in accordance with this Section 9.7.

9.8 Non-solicitation. During the Agreement and for a period of six (6) months following its expiry or earlier, lawful termination, Customer shall not solicit nor approach in any way any of Speedment's employees or contract staff ("**Restricted Persons**") with a view to: (i) offering such Restricted Persons, employment; or (ii) soliciting services from them on their own account; or (iii) encouraging them to provide their services to a third party rather than Speedment; or (iv) offering to them the opportunity to perform services colorably similar to the Support Services.

9.9 Non-waiver. Any failure of either party to insist upon or enforce performance by the other party of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement will not be interpreted or construed as a waiver or relinquishment of such party's right

to assert or rely upon such provision, right or remedy in that or any other instance.

9.10 Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions will remain in full force and effect and such provision will be enforced to the maximum extent possible so as to give effect the intent of the parties and will be reformed to the extent necessary to make such provision valid and enforceable.

9.11 Entire Agreement: Amendment. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, notwithstanding any different or additional terms that may be contained in the form of purchase order or other document used by Customer to place orders or otherwise effect transactions hereunder, which such terms are hereby rejected. This Agreement supersedes all prior or contemporaneous discussions, proposals and agreements between the parties relating to the subject matter hereof. No amendment, modification or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties.

Exhibit A

Support Services Policy

SPEEDMENT, INC. SUPPORT SERVICES POLICY **Effective August 2017**

This Speedment, Inc. Support Services Policy is the primary document used to communicate Speedment's support policies to licensees of Speedment software products (each such licensee, a "Customer"), including Speedment's software products available under both proprietary licenses and open source licenses (collectively, "Software"). As referenced either in the proprietary license agreement under which you obtain and are granted the right to use Speedment's commercial software and/or the agreement under which you obtain a subscription ("Subscription") to Speedment's support services (in each case, the "Agreement"), this Support Services Policy sets forth Speedment's support terms and conditions, as well as provides a description of Speedment's support levels. Capitalized terms not defined herein have the definition set forth in the applicable Agreement.

1. Scope of Support Services.

The scope of the Support Services provided to Customer includes general assistance and support regarding the installation of the Software and basic technical configuration of the Software, as well as developer assistance on how to use the Software and production assistance for deployed systems. Speedment will provide Support Services to Customer in accordance with this Support Services Policy, for the number of Nodes set forth in an applicable Order Form, where “Node” means a JVM node running a Speedment instance or for the scope otherwise applicable in the Order Form.

2. Support Services Subscription Levels.

Speedment offers different levels of Subscriptions to Support Services (each, a “Subscription Level”), which are described below and are subject to the specific terms and conditions set forth herein regarding hours of operation, response times, methods of support and other matters for each Subscription Level.

(a) Enterprise Level: (requires Enterprise Software License)

- **Products Covered:** Speedment Enterprise
- **Technical Account Manager:** included
- **Times:** 24 x 7 x 365
- **Method:** phone, e-mail and web
 - Includes screen share
- **Maximum number of Support Contacts:** 4
- **Emergency Patches:** yes
- **Annual Incidents:** unlimited

Severity	Target Response
Level 1	1 Hour
Level 2	4 Hours
Level 3	1 Business Day

(b) Professional Level

- **Products Covered:** Speedment (Apache 2.0 licensed)
- **Technical Account Manager:** not included
- **Times:** 24 x 7 x 365
- **Method:** phone, e-mail and web
 - Includes screen share
- **Maximum number of Support Contacts:** 2
- **Emergency Patches:** yes
- **Annual Incidents:** unlimited

Severity	Target Response
Level 1	2 Hours
Level 2	1 Business Day
Level 3	2 Business Days

(c) Basic Level

- **Products Covered:** Speedment (Apache 2.0 licensed)
- **Technical Account Manager:** not included
- **Times:** 9AM – 5PM Monday through Friday: CET (GMT + 1) or PST (GMT + 8) as shown on the Order Form
- **Method:** e-mail and web
- **Maximum number of Support Contacts:** 1
- **Emergency Patches:** no
- **Annual Incidents:** 5 max annual incidents (unless otherwise specified on Order Form)

Severity	Target Response
Level 1	1 Business Day
Level 2	2 Business Days
Level 3	4 Business Days

(d) Developer Level

Note: Speedment does not charge separate fees for Support Services for a development project where the customer has purchased production-grade Subscription Support Services (Professional or Enterprise).

- **Products Covered:** Speedment Enterprise or Speedment (Apache 2.0 licensed) as shown on the Order Form.
- **Times:** Monday through Friday: CET (GMT + 1) or PST (GMT + 8) as shown on the Order Form
- **Method:** e-mail or web
 - Includes screen share
- **Maximum number of Developers Support Contacts:** 2
- **Emergency Patches:** no
- **Annual Incidents:** unlimited

Severity	Target Response
Level 1	2 Business Days
Level 2	2 Business Days
Level 3	2 Business Days

Speedment shall use commercially reasonable efforts to meet the applicable targeted response times set forth above. Response times are measured from the receipt by Speedment of a support inquiry, and subject to hours of coverage applicable to the Subscription Level. Customer acknowledges that the time required for resolution of issues may vary depending on the specific circumstances of each problem, including, without limitation, the nature of the incident/problem, the extent and accuracy of information available about the incident/problem, and the level of Customer’s cooperation and responsiveness in providing materials, information, access and support reasonably required by Speedment to achieve problem resolution. The following issue severity level-specific obligations apply to all Subscription Levels:

- Speedment will use continuous, diligent efforts during its normal hours of operation to provide a resolution for any Level 1 issues as soon as is commercially reasonable.
- Speedment will use commercially reasonable efforts during its normal hours of operation to provide a resolution for any Level 2 issues.
- Speedment will use commercially reasonable efforts to provide a resolution for any Level 3 issue in time for an upcoming release of Software.
- All inbound production email cases shall have an initial status of Level 3.

4. Customer Obligations.

Customer is responsible for ensuring that its personnel that interact with Speedment have sufficient language and technical skills, and respond to and cooperate with Speedment in a timely manner in connection to requests for Support Services.

As a precondition for requesting Support Services from Speedment, Customer agrees to (and agrees to cause each of its developers, engineers and IT personnel to) use reasonable efforts to: (i) attempt to solve the problem and to utilize sufficient resources to clearly understand that a problem exists before consulting Speedment; (ii) provide Speedment with sufficient information and technical data in order for Speedment to establish that a potential problem is not the kind of problem that is an exclusion from the Support Services; (iii) make reasonable attempts and expend reasonable resources to provide any data reasonably requested by Speedment to adequately address the potential problem; (iv) utilize sufficient resources to understand the instructions from Speedment in addressing the problem, and make reasonable attempts to correct the problem as suggested by Speedment. In addition, Customer agrees and acknowledges that the extent of access and the accuracy of information and technical data provided may affect Speedment's ability to provide the Support Services.

All support requests must be submitted as follows, and submission must take place prior to engaging a Speedment resource:

- Via email to support@speedment.com;

All support request submissions must designate an issue Severity Level. Once the appropriate support request is filed, the most optimal method of contact may be utilized (phone, web, email), subject to the applicable Subscription Level. Severity level 1 and 2 issues must be filed via the web-based support portal. Severity level 3 issues may be filed via email or the web-based support portal. All e-mail based production tickets will be treated as severity level 3.

5. Support Service Exclusions.

Speedment will have no obligation to provide Support Services to Customer in the event that (i) the Software has been changed, modified or damaged by Customer or anyone other than Speedment, (ii) the problem is caused by Customer's negligence, misconduct, or misuse of the Software, a hardware malfunction, or other causes beyond the reasonable control of Speedment, (iii) the problem is due to third party software, or (iv) Customer has not installed or implemented any Software releases to comply with Section 6 below. The Support Services do not cover the support of any third party software which integrates with the Software. In addition, the Support Services do not include the following: (i) use of any version of Software that is not designated as a production release (such as a beta release or code contained in the sandbox or any other repository that is not packaged into a production release distribution); (ii) Customer's failure to comply with operating instructions contained in the documentation; (iii) installation, configuration, management and operation of Customer's

applications; (iv) APIs, interfaces or data formats other than those included with the Software; or (v) any training.

6. Version Support.

Speedment will provide Support Services for specific releases and versions of the Software as follows:

(a) A three-place numbering scheme is used to designate released versions of the Software. The format is R.V.M, where ‘R’ indicates the release level, ‘V’ indicates the version level, and ‘M’ indicates the maintenance fix level. An example would be version 1.1.3. Often in referring to general product versions and releases, the maintenance level is omitted. For example, both 1.1.3 and 1.1.4 may sometimes be referred to as Version 1.1.b. Each Version will be supported for eighteen (18) months from the date the Version is initially released. Support for each Version is supplied via maintenance fixes. Speedment will fix errors only in the most current maintenance fix level of the Software. Customer Support will direct customers to existing fixes/patches and workarounds applicable to the reported case. Customer Support may direct customers to upgrade to a more current release / version / maintenance fix of the Software.

(b) In the event that support for a version would normally expire under Section 6(a) and no later version has been released, support for the old version will be extended until the date that is thirty (30) days after the date on which a new version is released.

(c) In the event that support for a version would normally expire under Section 6(a), and no further versions are planned, a product may be end-of-life. The decision to end-of-life any Software product will be announced to Customer twelve (12) months ahead of the date that support for all versions of such Software product will no longer be available.

7. Defined Terms:

1. “Business Day” means Monday through Friday other than a day designated from time to time as a national holiday in the place from which Support Services may be provided.

2. “Incident” means a single question or issue posed by a Support Contact using the Support Services.

3. “Support Contact” means a single named individual that is authorized to contact Speedment to make use of the Support Services.

4. Severity Level:

- “Level 1” A Level 1 issue is a major production error within the Software that severely impacts the Customer’s use (or Customer’s end customer users) of the Software for production purposes, such as the loss of production data or where production systems are not functioning and no work-around exists.
- “Level 2” A Level 2 issue is an error within the Software where the Customer’s system (or Customer’s end customer users) is functioning for production purposes but in a reduced capacity, such as a problem that is causing significant impact to portions of the Customer’s business operations and productivity, or where the Software is exposed to potential loss or interruption of service.

- “Level 3” A Level 3 issue is a medium-to-low impact error that involves partial and/or non-critical loss of functionality for production purposes or development purposes, such as a problem that impairs some operations but allows the Customer’s operations to continue to function. Errors for which there is limited or no loss of functionality or impact to the Customer’s operation and for which there is an easy work-around qualify as Level 3.

8. Development Partner Program (optional service available if specified on Order Form)

Speedment offers extended service levels through the Development Partner Program.

(a) Engineering Relationship

- Priority for bug fix inclusion in new releases
- Regular (quarterly or semi-annual) meeting to ensure alignment with Speedment and our partner’s software releases, from a new feature standpoint
- Priority to new feature requests, when mutually agreed upon with Speedment.
- Contributor status in the Speedment Open Source Community.
- Priority to merging mutually agreed open source contributions (pull requests) to Speedment.

(b) Quality Relationship

- Provision of Stabilizer Tool for production-level stress testing, and assistance using said tool.
- Integration of Customer simulator test cases into Speedment release process on a best efforts basis.

The Development Partner Program will be honored for the Subscription Term. Speedment reserves the right to rename or modify the program, preserving the stated capabilities of the program or replacing with equal or enhanced capabilities at Speedment’s discretion.

Exhibit B

Special Entity Types

Speedment can, under certain conditions, offer discounted license fees to entities qualifying as a Special Entity Type. The following definitions applies to some Special Entity Types that may be eligible for discounted license fees:

(Startup) A Startup is a commercial (for-profit) entity generating revenues below \$1 million (or the equivalent aggregate in other currencies) and have less than 20 (full time equivalent) employees (and/or contractors) and where the original founders/co-founders remain in voting control of the entity.

(Nonprofit) A Nonprofit is an entity whose purpose is to serve the public in some way, whether through the offering of goods, services or a combination of the two. The nonprofits must make their financial and operating

information public. The objective of a Nonprofit is not to earn money and is neither a government nor controlled by any government.

Examples of Nonprofit organizations include charities, foundations, religious organizations, scientific, charitable, educational, literary, health, public safety or cruelty prevention causes or purposes.

End of Discounted Fee Period

Once an entity no longer qualifies as a Special Entity Type, normal license fees must be paid beginning from the date of non-qualification.