

MySQL OEM Agreement

This MySQL OEM Agreement is by and between MySQL and Customer, both as identified on the Order Form. This MySQL OEM Agreement and the Order Form collectively make up the entire agreement of the parties concerning Product (the "Agreement.") This Agreement is effective as of the Effective Date of the Order Form.

Notwithstanding the first sentence in the preceding paragraph, if no MySQL entity is listed on the Order Form then the MySQL entity will be (a) MySQL Americas, Inc. if Customer's address on the Order Form is in the United States, Canada, or Japan, or (b) MySQL AB if Customer's address on the Order Form is in any other country.

1. Definitions.

"CPU" means a single central processing unit within a computer.

"Customer Application" means the software, hardware, system or other Customer-owned application described on the Order Form, if any.

"Deployed" means one copy of Product sold, shipped, distributed, or otherwise deployed on one Server (on one CPU when Product is MySQL Cluster) as part of an Integrated Product.

"Distributor" means a third party authorized to distribute an Integrated Product as permitted in this Agreement.

"Download Website" means the MySQL website located at <http://oem.mysql.com/>, or an alternative site as MySQL may notify to Customer from time to time with respect to subsequent Product downloads by website redirection, email, or as set forth in Section 11.5 below.

"Effective Date" means the date on which MySQL transmits written, faxed, or emailed acceptance of Customer's Product order placed pursuant to the Order Form.

"End User" means an end user of an Integrated Product.

"EULA" means a written End User License Agreement between Customer and End Users (or a Distributor and End Users) which governs each End User's right to use an Integrated Product. Each EULA must be (a) accepted by each End User; and (b) consistent with the terms and conditions of this Agreement and include terms substantially similar to those set forth in Attachment A of this Agreement.

"GPL License" means version 2 of the GNU General Public License published by the Free Software Foundation.

"Integrated Product" means the product resulting from integrating a copy of the Product with a Customer Application.

"License Fee" means the nonrefundable fee(s) payable to MySQL for each Deployed copy of Product (except as expressly set forth in Section 4.1). The specific License Fees are set forth on the Order Form.

"Maintenance Release" means a new generally-available release of the Product during the Term that typically includes fixes and perhaps minor new features or enhancements. Maintenance Release version numbers assigned by MySQL are designated by changes to the right of the leftmost decimal point.

"Major Release" means a new generally-available release of the Product during the Term that typically includes significant new features and/or enhancements. Major Release version numbers assigned by MySQL are designated by changes to the left of the leftmost decimal point.

"Order Form" means (a) the applicable MySQL Order Form document signed by the parties or otherwise accepted by MySQL, or (b) Customer's Product order placed in MySQL's online shop accessible from the MySQL Website.

“Product” means a complete and unchanged copy of the object code of the MySQL database software product(s) listed on the Order Form, limited to the listed version(s) and limited to the code obtained by Customer from the Download Website. Product includes any Maintenance Releases and/or Major Releases made generally available by MySQL during the Term if License Fees for the applicable Release are stated on the Order Form. Product also includes the then-current version of supporting software MySQL Connector/J, MySQL Connector/ODBC, MySQL Connector/MXJ, and MySQL Connector/Net.

“Server” means a single machine which processes data using one or more CPUs. In the event such a machine contains Server Blades, each Server Blade is a separate Server.

“Server Blade” means a complete computing system on a single circuit board. A Server Blade will include one or more CPUs, memory, disk storage, operating system and network Connections. A Server Blade is designed to be hot-pluggable into a space-saving rack; each rack may contain many Server Blades.

“Support” means the level of MySQL annual technical support listed on the Order Form. Support is more fully described in Section 7 of this Agreement.

“Support Fee” means the nonrefundable annual fee payable to MySQL for Support. The first year Support Fee is as set forth on the Order Form. Support Fees for subsequent years during the Term shall be as provided on the relevant price list.

“Term” means the entire period of the Agreement as set forth on the Order Form, subject to Section 5.

Other capitalized terms may be defined herein in the context in which they appear, and will have the indicated meaning throughout this Agreement (including any attachments, exhibits, addenda and the like, unless otherwise set forth therein).

2. License Grant.

2.1 In consideration of the fees set forth in this Agreement and subject to the terms and conditions of this Agreement, MySQL grants to Customer a limited, worldwide (subject to applicable export restrictions), non-exclusive, and non-transferable license during the Term to:

- (a) download the Product from the Download Website;
- (b) create Integrated Products by integrating the Product with the Customer Application(s), provided that supporting software (see Product definition above) may only be used along with a copy of the database software portion of Product;
- (c) use the Product source code, only as may be made available at the Download Website at MySQL’s sole discretion, solely to facilitate the integration in 2.1(b) above provided that Customer does not modify the source code other than any changes that may automatically occur during normal compilation of source code into object code;
- (d) reproduce and directly, and indirectly through Distributors, distribute and sublicense (pursuant to a EULA) copies of Product as included in the Integrated Product, limited to the then-current quantity of Product for which License Fees have been paid; and
- (e) support distributed copies of the Integrated Products.

2.2 Customer shall not (and shall not permit third parties to):

- (a) use (except as necessary to perform under Section 2.1(b)) or distribute the Product in any way except as part of an Integrated Product;
- (b) use the Product or Integrated Products to operate in or as a time-sharing, outsourcing, service bureau, hosting, application service provider or managed service provider environment;
- (c) use or make available the Product or Integrated Products under a lease or rental;
- (d) use or make available the Product or Integrated Products as a general SQL server or pursuant to a public or open source license;
- (e) modify the Product (or without limitation the source code of the Product) except as expressly permitted in Section 2.1(c); or
- (f) change or delete any proprietary notices which appear in the Product.

2.3 Customer may appoint Distributors for the purpose of reproducing, distributing, and sublicensing Integrated Products as permitted by Section 2.1(d), provided that Customer shall: (a) require each Distributor to agree in writing to comply with an agreement that is (i) consistent with this Agreement with respect to the licensing and deployment of the Product or Integrated Products; and (ii) no less protective of the Product as are Customer's own agreements in which it grants licenses and/or distribution rights for the Customer Application; (b) enforce its agreements with Distributors and inform MySQL of any known breach thereof as it relates to the Integrated Products; and (c) defend, hold harmless and indemnify MySQL for any damages and expenses suffered by MySQL as a result of the acts or omissions of its Distributors that would constitute a breach of this Agreement if such acts or omissions were by Customer.

3. Delivery. Customer shall obtain the Product by download from the Download Website. MySQL will provide Customer with a password to an appropriate portion of the Download Website.

4. Orders and Payments: Taxes: Reports: Audits.

4.1 Customer shall pay to MySQL a License Fee for each Product copy Deployed in an Integrated Product. If Maintenance Releases and/or Major Releases are included as part of Product, if at any time during the Term Customer upgrades a Deployed Integrated Product copy to a Maintenance Release or Major Release of Product, no later than thirty (30) days after each such upgrade Customer shall notify MySQL and pay the additional License Fees applicable to such upgraded copies.

4.2 When Customer orders Support, Customer shall pay to MySQL the annual Support Fees.

4.3 All purchases under this Agreement are due upon the date(s) set forth in this Agreement and are payable within thirty (30) days from the date of MySQL's invoice. Payment shall be made without any right of set-off or deduction. All payments made pursuant to this Agreement shall be made in the quoted currency and are nonrefundable. Any amount not paid when required to be paid under this Agreement shall accrue interest at the rate of one and one-half percent (1.5%) per month (eighteen percent (18%) per annum) on the remaining amount required to be paid, or at the highest amount permitted by applicable law (if lower), such interest to accrue on a daily basis from the payable date until the remaining amount is paid. Upon written notice, MySQL may elect to discontinue Support to Customer if timely payment is not received, for the period such non-payment continues. Further, in the event that Product is purchased through a reseller rather than directly through MySQL, Support will be suspended if the reseller fails to pay all amounts due to MySQL.

4.4 Taxes. All fees are exclusive of applicable local, state, federal and international sales, value added, withholding and other taxes and duties of any kind. Customer shall be responsible for payment of taxes and duties of any kind payable with respect to the licensing of Product or the purchase of Support arising out of or in connection with this Agreement, other than taxes levied or imposed based upon MySQL's net income. Without limitation, Customer will be responsible for all applicable sales taxes unless it first claims a sales tax exemption by providing MySQL with an exemption certificate acceptable to the applicable authorities.

4.5 Audits. During the term of this Agreement and for five (5) years following termination, MySQL shall have the right (at MySQL's own expense) to conduct periodic reviews of Customer's records relating to its reproduction, use, and distribution of the Product for the purpose of verifying Customer's compliance with the terms of this Agreement. MySQL shall exercise this right upon no fewer than thirty (30) days' prior notice. Customer will provide MySQL with reasonable accommodation for the review, including reasonable use of available office equipment and access to all relevant Customer personnel and records during normal business hours. MySQL shall deliver to Customer a copy of the results of any such review. If an underpayment is identified, Customer shall immediately pay the full amount of any underpayment. Customer shall also pay MySQL the cost of any review, including (without limitation) travel expenses and the costs of any attorneys and consultants, if the review determines that Customer has underpaid fees for the period audited in excess of five percent (5%) of the proper amount owed to MySQL.

5. Term and Termination.

5.1 This Agreement shall commence on the Effective Date and continue for the Term unless terminated earlier as set forth below.

5.2 MySQL may terminate this Agreement upon written notice to Customer in the event of Customer's (a) unauthorized use of Product, (b) failure to make timely payment to MySQL, or (c) subject to its obligations under Section 9 of this Agreement, should the Product become, or in MySQL's reasonable opinion is likely to become, the subject of a claim of intellectual property infringement or trade secret misappropriation. Otherwise, either party may terminate this Agreement immediately in the event the other party commits a material breach of this Agreement and fails to remedy that breach within thirty (30) days of receipt of notice of material breach.

5.3 Customer shall immediately discontinue distribution of Integrated Products upon expiration or termination of this Agreement.

5.4 Expiration or termination of this Agreement for any reason will not terminate the rights of existing End Users on whose behalf Customer has paid applicable License Fees to MySQL and who are subject to a EULA. Sections 1, 4, 5, 6, 8, 9, 10, and 11 of this Agreement shall survive the termination of this Agreement for any reason.

6. Proprietary Rights. The intellectual property and proprietary rights of whatever nature in the Product and related documentation, including derivative works, are and shall remain the exclusive property of MySQL and/or its suppliers. Except as expressly set forth in this Agreement, nothing in this Agreement should be construed as transferring any aspects of such rights to Customer or any third party. MySQL and its suppliers reserve any and all rights not expressly granted in this Agreement. MySQL, MySQL Pro, MySQL Network, and MySQL Classic are trademarks of MySQL AB, and shall not be used by Customer without MySQL's express authorization. Customer shall include in the Integrated Products a notice that the Integrated Products include software whose copyright is owned by, or licensed from, MySQL AB.

7. Support. Support shall be subject to the terms of this Agreement and the terms of MySQL's then-current (a) support policies, (b) designation of supported platforms, and (c) description of Support features (<http://www.mysql.com/company/legal/> includes links to MySQL's support policies, supported platforms designations, and Support features). Any Support will solely be third-level support provided directly to Customer for the Product as included in the Integrated Product. Customer shall be responsible for providing first- and second-level support (e.g. accepting and responding to contacts and requests made by End Users). MySQL shall not be obligated to support any Customer Application.

8. Disclaimer of Warranties. **THE PRODUCT AND SUPPORT ARE PROVIDED TO CUSTOMER "AS IS," WITHOUT ANY WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, WARRANTIES CONCERNING THE INSTALLATION, USE OR PERFORMANCE OF THE PRODUCT OR SUPPORT. MYSQL AND ITS SUPPLIERS DISCLAIM ANY AND ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY FITNESS FOR A PARTICULAR PURPOSE AND/OR NON-INFRINGEMENT. MYSQL AND ITS SUPPLIERS DO NOT WARRANT THAT THE PRODUCT OR SUPPORT WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ERRORS WILL BE CORRECTED. Without limiting the generality of the foregoing disclaimer, Product is not specifically designed, manufactured or intended for use in the planning, construction, maintenance, control, or direct operation of nuclear facilities; aircraft navigation, control or communication systems; weapons systems; or direct life support systems.**

9. Indemnification and Infringement.

9.1 MySQL will defend Customer from any unaffiliated third party claim that Customer's use of the object code version of Product furnished by MySQL, when used within the scope of this Agreement, infringes or misappropriates a copyright owned by the third party in the U.S., Canada, Japan or any country that is a member of the European Union ("Claim"). MySQL will pay (a) counsel hired by MySQL to defend the Claim; (b) the reasonable and verifiable out-of-pocket costs incurred directly by Customer in connection with defending the

Claim and/or assisting MySQL in the defense thereof; and (c) subject to Section 10, any damages finally awarded to such third party by a court of competent jurisdiction (after any appeals) or any settlements of the Claim to which MySQL consents. The foregoing obligations shall be subject to Customer notifying MySQL promptly in writing of any claim, giving MySQL the exclusive control of the defense and settlement of the Claim, and providing all reasonable assistance in connection with the Claim without prejudicing MySQL in any manner. Subject to the foregoing conditions, nothing in this Agreement shall prohibit Customer from hiring separate counsel, at its own expense.

9.2 If MySQL receives information about an infringement claim related to Product, MySQL may, at its expense but without obligation to do so, either: (a) procure for Customer the right to continue to use Product; (b) replace Product with a functional equivalent; (c) modify Product so that it becomes non-infringing (including disabling the challenged functionality); or (d) repurchase the affected licenses less depreciation at the rate of twenty five percent (25%) per year, or pro rata for part of the year, from the date of payment to the date of removal of the Product, and terminate the Agreement. If MySQL selects option (b), (c) or (d), Customer shall immediately refrain from use of the allegedly infringing Product.

9.3 If as a result of a Claim, a court of competent jurisdiction issues a final injunction (which has not been appealed) against Customer's use of any part of Product, MySQL will, at its sole option, perform one of the remedy options listed in Section 9.2. If MySQL selects option (b), (c) or (d), Customer shall immediately refrain from use of the allegedly infringing Product.

9.4 MySQL shall have no liability for any Claim arising out of or relating to (a) Customer's use of the Product after MySQL notifies Customer to discontinue use due to such a Claim; (b) the combination of the Product with a non-MySQL application, product, data or business process; (c) damages attributable to the value of a non-MySQL application, product, data or business process; (d) modifications to Product other than modifications made by MySQL; (e) changes made by MySQL to Product in accordance with any designs, specifications or instructions provided to MySQL by or on behalf of Customer; (f) continued use or distribution of any Product for which MySQL has provided Customer with modifications or substitute Product if use of such modifications or substitute Product would have prevented the Claim; or (g) use of the Product in a manner prohibited under the Agreement. Customer shall reimburse MySQL for any costs or damages that result from any of the foregoing actions.

9.5 Customer hereby agrees to indemnify MySQL against any damages finally awarded against MySQL by a court of competent jurisdiction in connection with: (a) an allegation that one or more of the Customer Applications infringes any copyright owned by the third party in the U.S., Canada, Japan or any country that is a member of the European Union; (b) the use of the Product in a manner prohibited under this Agreement, or in a manner for which the Product was not designed; (c) integration or use of the Product with one or more Customer Applications, where use of the Product alone would not infringe; (d) changes made by Customer to the Product, where use of unmodified Product would not infringe; (e) changes made to the Product by MySQL in compliance with any designs, specifications or instructions provided by or on behalf of Customer; or (f) bodily injury, property damage or any other damage or injury due to the use or inability to use an Integrated Product (subject to MySQL's indemnification of Customer as provided in Section 9.1); provided that: (x) Customer is given prompt written notice of the claim; and (y) if Customer has elected to pay for defense of the claim and so notified MySQL in writing: (i) Customer is given immediate and complete control over the defense and/or settlement of the claim; and (ii) MySQL provides cooperation and assistance in the defense of such claim and does not prejudice in any manner Customer's conduct of such claim.

9.6 The foregoing provisions of Section 9 state the parties' entire obligations and liability with respect to the infringement or violation of any third-party property right, and shall be subject to the limitations in Section 10 of this Agreement.

10. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY OR THEIR SUPPLIERS HAVE ANY LIABILITY FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) ANY LOST PROFIT OR LOST SAVINGS (WHETHER RESULTING FROM IMPAIRED OR LOST DATA, SOFTWARE OR COMPUTER FAILURE, SUPPORT FAILURE, OR ANY OTHER CAUSE), EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR CUSTOMER'S AND ANY DISTRIBUTOR'S INFRINGEMENT OR MISAPPROPRIATION OF

MYSQL'S INTELLECTUAL PROPERTY RIGHTS, IN ANY EVENT, AND NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, THE AGGREGATE LIABILITY OF A PARTY FOR ANY REASON AND UPON ANY CAUSES OF ACTION UNDER THIS AGREEMENT SHALL BE LIMITED TO (i) FOR MYSQL'S LIABILITY, THE AMOUNT PAID TO MYSQL UNDER THIS AGREEMENT; AND (ii) FOR CUSTOMER'S LIABILITY, THE AMOUNT PAID OR OWING TO MYSQL UNDER THIS AGREEMENT.

11. Miscellaneous.

11.1 Severability. If any part of this Agreement is held by a court of competent jurisdiction to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected and such provision shall be deemed modified to the minimum extent necessary to make such provision consistent with applicable law and, in its modified form, such provision shall then be enforceable and enforced.

11.2 Assignment. Customer may not assign this Agreement or its rights or obligations under this Agreement to any person or party, whether by operation of law or otherwise, without MySQL's prior consent (at MySQL's sole discretion). Any attempt by Customer to assign this Agreement without MySQL's prior consent, where such consent is required, shall be null and void. Subject to the foregoing conditions, this Agreement shall be binding upon and inure to the benefit of each party and its respective successors and assigns. There are no intended third party beneficiaries of this Agreement.

11.3 No Waiver; Limitations. Failure by either party to exercise any right or remedy under this Agreement does not signify acceptance of the event giving rise to such right or remedy. To the extent permitted by applicable law, no action, regardless of form, arising out of this Agreement may be brought by Customer more than one (1) year after the cause of action has accrued.

11.4 Governing Law.

11.4.1 If this Agreement is by MySQL Americas, Inc., this Agreement shall be governed by the laws of the State of California, without regard to the conflict of laws provisions thereof. In no event shall either the United Nations Convention on Contracts for the International Sale of Goods or any adopted version of the Uniform Computer Information Transactions Act apply to, or govern, this Agreement. In the event either party initiates an action in connection with this Agreement or any other dispute between the parties, the exclusive venue and jurisdiction of such action shall be in the state and federal courts in Santa Clara County, California..

11.4.2 If this Agreement is by MySQL AB, this Agreement shall be governed by the laws of Sweden, without regard to any conflict of laws provisions thereof. In no event shall the United Nations Convention on Contracts for the International Sale of Goods apply to, or govern, this Agreement. In the event either party initiates an action in connection with this Agreement or any other dispute between the parties, the exclusive venue and jurisdiction of such action shall be in the courts of Stockholm, Sweden.

11.4.3 Notwithstanding Sections 11.4.1 and 11.4.2, either party may enforce any judgment rendered by such court in any court of competent jurisdiction, and MySQL may seek injunctive or other equitable relief in any jurisdiction in order to protect its intellectual property rights.

11.4.4 Any action brought under this Agreement shall be conducted in the English language. If the Customer is located in France or Quebec, Canada, the following clause applies: The parties hereby confirm that they have requested that this Agreement be drafted in English. Les parties contractantes confirment qu'elles ont exigé que le présent contrat et tous les documents associés soient rédigés en anglais.

11.4.5 Customer shall comply at its own expense with all relevant and applicable laws related to the use and distribution of Product as permitted in this Agreement.

11.5 Notices. Unless otherwise agreed to by the parties, any notice, authorization, or consent required or permitted to be given or delivered under this Agreement shall be in writing and addressed and delivered to the other party's address set forth on the Order Form (or, for any Customer orders on MySQL's online shop, to MySQL at 20450 Stevens Creek Boulevard, Suite 350, Cupertino, CA 95014, and to Customer at the address given in Customer's order). Notices to MySQL shall be addressed to "Contracts Administration." Notice shall be

deemed to have been received by a party, and shall be effective: (a) on the day given, if sent by confirmed facsimile transmission; (b) on the fifth business day after which such notice is deposited prepaid in the local postal system; or (c) on the day received, if sent with a reputable, expedited overnight or international courier or hand delivered. Either party may change its address for notice purposes upon issuance of notice thereof in accordance with this Section.

11.6 Attorneys Fees. Subject to Section 10, for the purposes of any action between the parties relating to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

11.7 Independent Contractors. The parties enter into this Agreement as, and shall remain, independent contractors with respect to one another. Nothing in this Agreement shall create a partnership, joint venture, agency, or employment relationship between the parties.

11.8 Export Law Assurances. Customer acknowledges that the Product may be subject to export and import control laws, and agrees to comply fully with those laws in connection with the Product. Customer agrees that the Product is not being and will not be acquired for, shipped, transferred, or re-exported, directly or indirectly, to proscribed or embargoed countries or their nationals, nor will it be used for: nuclear activities, chemical or biological weapons, or missile projects unless authorized by the U.S. government. Customer hereby certifies that it is not prohibited by the U.S. government from participating in export or re-export transactions.

11.9 U.S. Government Restricted Rights. If Product is being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), in accordance with 48 C.F.R. 227.7202-4 (for Department of Defense ("DOD") acquisitions) and 48 C.F.R. 2.101 and 12.212 (for non-DOD acquisitions), the government's rights in such Product and any documentation, including its rights to use, modify, reproduce, release, perform, display or disclose Product or any documentation, will be subject in all respects to the license rights and restrictions provided in this Agreement.

11.10 Force Majeure. Except for performance of a payment obligation, neither party will be liable to the other by reason of any failure in performance of this Agreement if the failure arises out of the unavailability of communications facilities or energy sources, acts of God, acts of the other party, acts of governmental authority, fires, strikes, delays in transportation, riots, terrorism, war, or any causes beyond the reasonable control of that party.

11.11 Confidentiality. Neither party shall disclose the financial or other terms of this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, MySQL shall have the right to identify Customer as a commercial licensee of MySQL software, including by making reference thereto on the MySQL website (www.mysql.com).

11.12 GPL. Customer understands that the Product is generally available pursuant to the GPL License. This Agreement replaces the GPL License solely with respect to Customer's uses, distributions, and sublicensing of the Product as expressly permitted in this Agreement. This Agreement does not replace or otherwise amend any Customer rights or obligations pursuant to the GPL License with respect to any uses, distributions, or sublicensing of the Product not expressly addressed by this Agreement.

11.13 Entire Agreement. This Agreement comprises the entire agreement between the parties regarding the subject matter hereof and supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to the subject matter of this Agreement. Except as otherwise set forth herein, this Agreement may be amended or modified only in a writing executed by both parties. MySQL's acceptance of any document submitted by Customer to MySQL shall not be construed as an acceptance of provisions which are in any way in conflict or inconsistent with, or in addition to, this Agreement, unless such terms are separately and specifically accepted in writing by an authorized representative of MySQL. This Agreement may be incorporated in other documents or executed via facsimile or via emailed PDF-format document (or other mutually agreeable document format), and a facsimile or emailed copy of either party's signature shall be deemed and be enforceable as an original thereof. This Agreement may be executed in counterparts, both of which taken together shall constitute one single Agreement between the parties.

12. Endorsement. During the term of this Agreement, Customer agrees to be a reference for MySQL, participate in a MySQL case study, and participate in a press release regarding Customer's integration and distribution of MySQL software, as follows: (a) Reference. As a reference, Customer agrees to speak in good faith with media and/or MySQL customers or prospects from time to time about its use of MySQL products and services. Such reference opportunities will be limited to a reasonable quantity and mutually agreed content; (b) Case Study. Customer agrees to make appropriate personnel available to be interviewed for a MySQL case study that describes Customer's successful integration and distribution of the Product. MySQL may publish the case study without limitation with respect to quantity and form. Prior to publishing the case study, MySQL will provide the same to Customer for Customer's review and approval, which approval shall not be unreasonably withheld or delayed; and (c) Press Release. MySQL may issue a press release in which MySQL announces that Customer is integrating and distributing the Product as part of the Integrated Product(s). Customer, at its discretion, may also issue a press release about the mutually agreed content. Neither party shall release its press release without first providing such press release to the other party for its review and approval, which approval shall not be unreasonably withheld or delayed.

MySQL OEM Agreement

Attachment A Minimum End User License Agreement Terms

EULAs must, at a minimum:

1. Restrict the End User's license to a limited, non-exclusive, non-transferable license to run one copy of the object code version of the Product on one machine or instrument solely as integrated with, and for running and extracting data from a Customer Application.
2. Limit the End User's rights to internal business purposes. If the Integrated Product is licensed for concurrent or network use, the EULA must prohibit End User from allowing more than the maximum number of authorized users to access and use the Product concurrently.
3. Permit the End User to make copies of the Product only for backup and archival purposes.
4. Prohibit the End User from: (a) copying the Product onto any public or distributed network; (b) using the Product to operate in or as a time-sharing, outsourcing, service bureau, application service provider or managed service provider environment; (c) using the Product as a general SQL server, as a stand alone application or with applications other than Customer Applications under this license; (d) changing any proprietary rights notices which appear in the Product; or (e) modifying the Product.
5. Indicate that all third party licensors and suppliers retain all right, title and interest in third party software and all copies thereof, including all copyright and other intellectual property rights.
6. Permit the End User to transfer the license granted by the EULA only if (a) End User complies with any transfer terms imposed by Customer and delivers all copies of the Integrated Product to the transferee along with the EULA, (b) transferee accepts the terms and conditions of the EULA as a condition to any transfer, and (c) End User's license to use the Integrated Product terminates upon transfer.
7. Require the End User to comply with all applicable export laws and regulations.
8. Require End User to immediately destroy all copies of the Product upon termination of the EULA.