



## Force.com Free Edition Agreement

THIS Force.com FREE EDITION AGREEMENT ("**AGREEMENT**") GOVERNS YOUR USE OF OUR Force.com FREE EDITION.

IF YOU PURCHASE SERVICES FROM US, YOUR PURCHASE AND ONGOING USE OF THOSE PURCHASED SERVICES WILL BE GOVERNED BY OUR MASTER SUBSCRIPTION AGREEMENT AT <http://www.salesforce.com/company/agreements/msa/>, WHICH YOU HEREBY ACCEPT, UNLESS A SUPERSEDING MASTER SUBSCRIPTION AGREEMENT IS IN EFFECT BETWEEN YOU AND US AT THE TIME OF THE PURCHASE, IN WHICH CASE THAT MASTER SUBSCRIPTION AGREEMENT WILL GOVERN SUCH PURCHASE AND USE.

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THIS AGREEMENT, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE Force.com FREE EDITION.

You may not access the Force.com Free Edition if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the Force.com Free Edition for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on November 5, 2009. It is effective between You and Us as of the date of Your acceptance of this Agreement.

### 1. DEFINITIONS

"**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "**Control**," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**Force.com Free Edition**" means the online, Web-based Force.com Free Edition service provided by Us as described in this Agreement and the User Guide, that You order through <http://www.salesforce.com> or under an Order Form.

"**Order Form**" means any ordering documents for Your subscriptions to the Force.com Free Edition, including addenda thereto, that are entered into between You and Us. Order Forms include any pages on <http://www.salesforce.com> through which You registered for the Force.com Free Edition. Order Forms shall be deemed incorporated herein by reference.

"**Third-Party Application**" means a web application that is provided by a third party and interoperates with the Force.com Free Edition, including but not limited to those listed on the AppExchange.

"**User Guide**" means the online user guide for the Force.com Free Edition, accessible via <http://www.salesforce.com>, as updated from time to time.

"**Users**" means individuals who are authorized by You to use the Force.com Free Edition, for whom subscriptions to the Force.com Free Edition have been acquired pursuant to this Agreement, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your employees, consultants, contractors and agents; or third parties with which You transact business.

"We," "Us" or "Our" means salesforce.com, inc., a Delaware corporation with a principal place of business at The Landmark @ One Market, Suite 300, San Francisco, California 94105, United States of America.

"You" or "Your" means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

"Your Application" means a web application that You (or a third party acting on Your behalf) create and that interoperates with the Force.com Free Edition.

"Your Data" means all electronic data or information submitted by You to the Force.com Free Edition.

## 2. PROVISION AND USE OF Force.com FREE EDITION

**2.1 Provision of Force.com Free Edition for 100 Users.** We shall make 100 User subscriptions of the Force.com Free Edition available to You pursuant to this Agreement and relevant Order Forms. User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Force.com Free Edition.

**2.2 Administration User.** Your 100 Force.com Free Edition User subscriptions include one administration User subscription. The administration User subscription may be used solely to administer the Force.com Free Edition service. It may be not be accessed or used to enter, view or modify Leads, Opportunities, Products, Forecasts, Cases, Solutions or Campaigns.

**2.3 Limit of One Application with 10 Custom Objects.** Each Force.com Free Edition User may access a single web application with no more than 10 custom objects. That application may be Your Application or a Third-Party Application. You must assign each Force.com Free Edition User subscription to a User profile that has access to no more than 10 custom objects. Standard objects that a Force.com Free Edition User can view within the Force.com Free Edition service do not count toward the 10-custom-object limit.

**2.4 Limit of One 100-User Force.com Free Edition Subscription.** You and Your Affiliates collectively shall not subscribe to more than one 100-User Force.com Free Edition subscription at a time.

**2.5 Violation of Administration User Restrictions or 10-Custom-Object Limit.** You understand that the limitations in sections 2.2 (Administration User), 2.3 (Limit to One Application with 10 Custom Objects) and 2.4 (Limit of One 100-User Force.com Free Edition Subscription) are contractual in nature (i.e., the administration user functionality, the number of custom objects, and the number of 100-User Force.com Free Edition subscriptions are not limited as a technical matter in the Force.com Free Edition). You therefore agree to strictly monitor Your Users' use of the Force.com Free Edition subscriptions and enforce the administration User restrictions, the limit on the number of custom objects, and the limitation to one 100-User Force.com Free Edition subscription. We may audit Your use of Force.com Free Edition subscriptions at any time through the Force.com Free Edition service. Should any audit reveal any use of Force.com Free Edition subscriptions in violation of the administration User restrictions, You agree You will purchase, within five (5) business days of notice of the audit results, a full, annual Enterprise Edition User subscription at our then-current list price. Should any audit reveal any use of Force.com Free Edition subscriptions in violation of the numerical limit on custom objects, You agree You will purchase, within five (5) business days of notice of the audit results, a full, annual Force.com Edition subscription at our then-current list price for each Force.com Free Edition subscription showing unauthorized use. Should any audit reveal any use of Force.com Free Edition subscriptions in violation of the limitation to one 100-User Force.com Free Edition subscription, You agree You will purchase, within five (5) business days of notice of the audit results, a full, annual 100-User Force.com Edition subscription at our then-current list price for each unauthorized 100-User Force.com Free Edition subscription.

**2.6 Force.com Sites.** Your Force.com Free Edition subscriptions may include Our Force.com Sites service. Any use of the Force.com Sites service is subject to the [Order Form Addendum and Terms of Use for Force.com Sites](#).

**2.7 Other Usage Limitations.** The Force.com Free Edition may be subject to other limitations, such as, for example, limits on disk storage space, and on the number of calls You are permitted to make against Our application programming interface. Any such limitations are specified in the User Guide. The Force.com Free Edition provides real-time information to enable You to monitor Your compliance with these limitations.

**2.8 Your Responsibilities.** You shall (i) be responsible for Users' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of, and for the means by which You acquired, Your Data

and Your Applications, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Force.com Free Edition, and notify Us promptly of any such unauthorized access or use, and (iv) use the Force.com Free Edition only in accordance with the User Guide and applicable laws and government regulations. You shall not (a) make the Force.com Free Edition available to anyone other than Users, (b) sell, resell, rent or lease the Force.com Free Edition, (c) use the Force.com Free Edition to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Force.com Free Edition to store or transmit malicious code or malware, or to engage in phishing or other fraudulent activity, (e) interfere with or disrupt the integrity or performance of the Force.com Free Edition or third-party data contained therein, or (f) attempt to gain unauthorized access to the Force.com Free Edition or Our systems or networks.

### **3. THIRD-PARTY PROVIDERS**

**3.1 Acquisition of Third-Party Products and Services.** We may offer Third-Party Applications for sale under Order Forms. Any other acquisition by You of third-party products or services, including but not limited to Third-Party Applications and implementation, customization and other consulting services, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. We do not warrant or support third-party products or services, whether or not they are designated by Us as “certified” or otherwise, except as specified in an Order Form. No purchase of third-party products or services is required to use the Force.com Free Edition.

**3.2 Third-Party Applications and Your Data.** If You install or enable a Third-Party Application for use with the Force.com Free Edition, You acknowledge that We may allow the provider of that Third-Party Application to access Your Data as required for the interoperation of such Third-Party Application with the Force.com Free Edition. We shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by a Third-Party Application provider. The Force.com Free Edition shall allow You to restrict such access by restricting Users from installing or enabling Third-Party Applications for use with the Force.com Free Edition.

### **4. NO FEES**

The Force.com Free Edition is currently provided at no charge. We reserve the right to change our pricing policies for the Force.com Free Edition at any time on 90 days’ notice given in accordance with Section 11.1 (Notices).

### **5. LICENSES**

#### **5.1 Our License to You.**

- a. **We grant you a worldwide license during the term of this Agreement to use the Force.com Free Edition to (i) create Your Applications, (ii) operate Your Applications and Third-Party Applications, and (iii) create software to integrate the Force.com Free Edition, Your Applications and Third-Party Applications with Your systems.**
- b. **You shall not (i) permit any third party to access the Force.com Free Edition except as permitted herein or in an Order Form, (ii) create derivative works based on the Force.com Free Edition, (iii) copy, frame or mirror any part or content of the Force.com Free Edition, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Force.com Free Edition, or (v) access the Force.com Free Edition in order to build a competitive product or service or to copy any features, functions or graphics of the Force.com Free Edition.**

#### **5.2 Your License to Us.**

- a. **You grant us a worldwide license to use, reproduce, transmit, display and adapt Your Applications, any Third-Party Applications that You install on the Force.com Free Edition, and any software You create using the Force.com Free Edition, solely as necessary for Us to provide the Force.com Free Edition in accordance with this Agreement.**
- b. **You grant us a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into our services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of our services.**

**5.3 Federal Government End Use Provisions.** We provide the Force.com Free Edition, including related software and technology, for ultimate federal government end use solely in accordance with the following:

Government technical data and software rights related to the Force.com Free Edition include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under this Agreement, it must negotiate with Us to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

## 6. PROPRIETARY RIGHTS

**6.1 Our Proprietary Rights.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Force.com Free Edition, including all related intellectual property rights subsisting therein. We grant no rights to You hereunder other than as expressly set forth herein.

**6.2 Your Proprietary Rights.** Except as provided in Section 5.2 (Your License to Us), We acknowledge and agree that We obtain no right, title or interest from You (or your licensors) under this Agreement in or to Your Data, any of Your Applications, or any source code You (or a third party acting on Your behalf) create using the Force.com Free Edition, including any intellectual property rights subsisting therein.

## 7. EXCLUSION OF WARRANTIES

WE MAKE NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND WE SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE DO NOT REPRESENT OR WARRANT THAT YOUR USE OF THE Force.com FREE EDITION WILL MEET YOUR REQUIREMENTS OR THAT YOUR USE OF THE Force.com FREE EDITION WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR.

## 8. INDEMNIFICATION

You shall defend Us against any claim, demand, suit, or proceeding ("**Claim**") made or brought against Us by a third party alleging that Your Data, Your Applications or other materials developed by You (or by a third party on Your behalf) using the Force.com Free Edition infringe or misappropriate the intellectual property rights of a third party or violate applicable law (to the extent such infringement, misappropriation or violation does not arise from the Force.com Free Edition), and shall indemnify Us for any damages finally awarded against, and for reasonable attorney's fees incurred by, Us in connection with any such Claim; provided, that We (a) promptly give You written notice of the Claim; (b) give You sole control of the defense and settlement of the Claim (provided that You may not settle any Claim unless the settlement unconditionally release Us of all liability); and (c) provide to You all reasonable assistance, at Our expense.

## 9. LIMITATION OF LIABILITY

IN NO EVENT SHALL WE HAVE ANY LIABILITY TO YOU FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, WE SHALL HAVE NO LIABILITY FOR LOSS OF PROFITS, REVENUE OR DATA OR FOR INTERRUPTIONS IN SERVICE. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

## 10. TERM AND TERMINATION

**10.1 Term.** This Agreement commences on the date You accept it and continues until terminated in accordance with Section 10.2 (Termination).

**10.2 Termination.** You may terminate Your Force.com Free Edition service without cause at any time upon written notice to Us. We may terminate Your Force.com Free Edition service (a) at any time without cause upon 60 days' written notice to You, or (b) upon 7 days' written notice to You of a material breach of this Agreement if such breach remains uncured at the expiration of such period. Upon any termination of Your Force.com Free Edition service, this Agreement shall also terminate, subject to Section 10.5 (Surviving Provisions).

**10.3 Return of Your Data.** Upon request by You made within 30 days after the effective date of termination of Your Force.com Free Edition service, We will make available to You for download a file of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

**10.4 LOSS OF APPLICATIONS AND MATERIALS.** UPON ANY TERMINATION OF YOUR Force.com Free Edition SERVICE, YOUR APPLICATIONS, AND OTHER MATERIALS DEVELOPED BY YOU USING THE Force.com Free Edition WILL BE PERMANENTLY LOST.

**10.5 Surviving Provisions.** Sections 6 (Proprietary Rights), 7 (Exclusion of Warranties), 8 (Indemnification), 9 (Limitation of Liability), 10.3 (Return of Your Data), 11 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction) and 13 (General Provisions) shall survive any termination or expiration of this Agreement.

## **11. NOTICES, GOVERNING LAW, VENUE, AND WAIVER OF JURY TRIAL**

**11.1 Notices.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (a) personal delivery, (b) the second business day after mailing, (c) the second business day after sending by confirmed facsimile, or (d) the first business day after sending by email (provided email shall not be sufficient for notices of material breach or an indemnifiable claim). Notices to Us shall be addressed to the attention of salesforce.com, inc., The Landmark @ One Market, Suite 300, San Francisco, California, 94105, U.S.A., Attention: VP, Worldwide Sales Operations, with a copy to Our General Counsel, Fax (415) 901-7040. Notices to You shall be addressed to the system administrator designated by You for Your relevant Force.com Free Edition account, and in the case of billing-related notices, to the relevant billing contact designated by You.

**11.2 Governing Law.** This Agreement, and any disputes arising out of or related hereto, shall be governed exclusively by the internal laws of the State of California and controlling United States federal law, without regard to their conflicts of laws rules or the United Nations Convention on the International Sale of Goods.

**11.3 Venue; Waiver of Jury Trial.** The state and federal courts located in San Francisco County, California shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

## **12. CHANGES TO TERMS**

We may make changes to this Agreement from time to time. When these changes are made, We will make a new copy of the Terms available on this web page. You understand and agree that if you use the Force.com Free Edition after the date on which this Agreement has changed, We will treat Your use as acceptance of the updated Terms.

## **13. GENERAL PROVISIONS**

**13.1 Export Compliance.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Force.com Free Edition. Without limiting the foregoing, (a) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (b) it shall not permit Users to access or use the Force.com Free Edition in violation of any U.S. export embargo, prohibition or restriction.

**13.2 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**13.3 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**13.4 Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**13.5 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the

original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**13.6 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in their entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**13.7 Entire Agreement.** This Agreement, including all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.