

F5 PROGRAM TERMS

Last updated: February 21, 2020

These F5 Program Terms (“Program Terms”) supplement the terms of the F5 End User License Agreement available at f5.com/about-us/policies and delivered with your Software (the “EULA”). Unless otherwise indicated, capitalized terms used in each section are used as defined in such section. Capitalized terms not defined within a section have the meaning given to them in the EULA.

Program Terms:

- I. **MyF5 Subscription Terms**
- II. **F5 Enterprise License Terms**
- III. **Direct Sale Terms**
- IV. **Additional Terms**

I. MyF5 SUBSCRIPTION TERMS

The MyF5 Subscription Terms contained in this Section I (these “Subscription Terms”), together with the EULA, apply to your subscription for the F5 BIG-IP VE Software that you enter into through F5’s MyF5 subscription portal (the “Subscription”). In the event of a conflict between these Subscription Terms and the EULA, these Subscription Terms will govern, but only to the extent of such conflict. Capitalized terms used in this Section I and not otherwise defined will have the meaning(s) set forth in the EULA. In addition to the EULA, your Subscription is subject to the following:

1. **Ordering and Keys.** Unless we otherwise agree in writing, you will order all Software Instances from a reseller authorized by F5 to sell F5 and Nginx software (a “Reseller”) in accordance with these Subscription Terms. You will submit a Purchase Order for your Initial Order within 5 business days following your acceptance of these Subscription Terms (the “Subscription Terms Effective Date”). You will initiate purchases of any additional Software Instances (“Additional Purchases”) by submitting a request either through MyF5 or by contacting your F5 sales representative. You will submit a Purchase Order for all Additional Purchases to your Reseller. You will receive your License Keys from us following your submission of the Initial Order or Additional Purchases, as applicable. You may request a list of Resellers from us. Nothing contained in any agreement between you and your Reseller will modify, negate or otherwise have any effect on these Subscription Terms or the EULA.
2. **Term.** The initial term begins on the date that you receive the License Keys for your Initial Order (“Subscription Start Date”) and continues for the period agreed to in your Initial Order (“Term”). Subscriptions purchased in an Initial Order will run for the Term, and terms of Additional Purchases will run from the date of purchase of each applicable Software Instance to the end of the Term.
5. **Support Services.** Premium technical support for F5 branded Software and support services for Nginx branded Software during the Term is included in the applicable fees for each Software Instance. Expedited support beyond Premium for F5 branded Software may be available for purchase for an additional fee.
6. **Term & Termination.** These Subscription Terms will be effective from the Subscription Terms Effective Date until (a) termination of the Term as set forth in Section 2; or (b) termination in accordance with Section 12 of the EULA. The parties’ rights and obligations that by their nature are intended to survive termination, and those clauses that specifically so indicate, will survive termination of these Subscription Terms. Upon termination, you will pay us or your Reseller all fees incurred through the date of the termination.
7. **Definitions.**
 - a. **“Initial Order”** means the first accepted Purchase Order of the Software Instances covered by the Subscription Terms.
 - b. **“List Price”** means F5’s then-current list price for a particular Software Instance in a specified region of sale. We may, in our sole discretion, set our List Prices independently.
 - c. **“Purchase Order”** means any written or electronic order you issue for the purchase of any Subscription Offering under these Subscription Terms and under the EULA.
 - d. **“Software Instance”** means any BIG-IP virtual edition of each BIG-IP offering, instance of Nginx software or instance of any other software as made available on a subscription basis from time to time; but not including VEs as acquired through a public marketplace program under which licenses are sold or rented to end users on a marketplace operator’s public cloud platform where the marketplace operator receives a percentage of the revenue received from end users.

II. F5 ENTERPRISE LICENSE TERMS

The enterprise license terms contained in this Section II (“ELA Terms”), together with the EULA, apply in the event that you have entered into a multi-year enterprise subscription with F5. Additional definitions used in these ELA Terms are provided in Section 6 below.

- 1. Subscription.** You are entering into a subscription for certain F5 and Nginx software products (“Software”). During the Subscription Term, you may Deploy and Retire any number of Software Instances. The Initial Usage at list price is as indicated on an F5 issued quote (“Quote”). The term of the subscription is thirty-six (36) months or as otherwise indicated on the Quote (the “Subscription Term”). Where permitted by law, we will use commercially reasonable efforts to cause your Reseller to provide you with a recommended minimum discount off of list price as indicated on the Quote. You and your Reseller are free to negotiate actual pricing and pricing terms. The name and email address of your primary point of contact for all aspects of the relationship between F5 and you under this subscription will be provided on your purchase order (“Account Administrator”). You may replace the Account Administrator at any time by providing us with written notice.
- 2. Order Commitment and Payment.** You will submit, or have submitted, a purchase order for an amount representing the Initial Usage to a reseller who is authorized by us to resell our Software (“Reseller”). At the start of each subsequent Annual Term, you will submit payment to your Reseller for your adjusted Annual Usage. At the end of the Subscription Term, if your actual usage for the Final Billing Term exceeds the Annual Usage for that period and you do not enter into a new subscription, you will submit a one-time payment to your Reseller equal to the Annual Growth during the final Billing Term. If you are authorized by us to purchase our Software directly, the payment terms in Section III below apply.
- 3. Reporting.** In order for us to calculate your usage of our Software, within 10 days following the end of each Quarter, whether or not you have Deployed any Software Instances, you will provide a Usage Report to us for each Software product that you have Deployed. In the case of BIG-IP Virtual Edition Deployments, you will use the included Software Management Tool, the BIG-IQ License Management Tool, to run a Usage Report, and will submit each report to us (i) electronically, using the Software Management Tool’s electronic report submission mechanisms to send the report to us (either manually or automatically) over the internet to API.f5.com or (ii) via email attachment to vesubscriptions@f5.com. For Software product Deployments that do not make use of a Software Management Tool or any other similar means of communicating your usage to us (including, but not limited to, Nginx branded Software) (“Self-Reported Software”), you will certify to us in writing the number and type of Software Instances that you are running, denoting any Software Instances Deployed during the corresponding Annual Term. You represent and warrant that you will not alter a Usage Report, knowingly report inaccurate usage, transfer Software Instances between subscriptions, or otherwise attempt to manipulate the reporting of actual usage. If you cannot create a Usage Report for any reason, you will contact F5 technical support for assistance, and you will create and submit any overdue Usage Reports. If any Report is erroneously generated, misdirected, or otherwise lost and not capable of being submitted, you will generate historical usage reports for any such missing reports from the Software Management Tool and submit them to us, with the assistance of F5 technical support personnel. You will promptly report to F5’s technical support personnel any known or suspected error in any Usage Report. From time to time we may introduce features to the Software designed to automate reporting of your usage of Software made available to you under this subscription. You agree that you will utilize any reasonably implemented automated reporting systems introduced by us in the future with respect to the Software. After we receive the Usage Report(s) each Quarter, we will provide you with access to a Run Rate Report and Subscription Activity Report (together, “Subscription Report”) covering the applicable Quarter. You will have 10 days from the date that we make the Subscription Report available to you to dispute any reported activity. If you do not dispute a Subscription Report within 10 days of us making it accessible to you, the Subscription Report will be considered final.
- 4. Support.** Premium technical support for F5 branded Software and support services for Nginx branded Software during the Subscription Term is included in the applicable fees for each Licensed Instance. Expedited support beyond Premium for F5 branded Software may be available for purchase subject to an additional fee.
- 5. Term; Termination.** Your subscription is effective as of the day that you are first provided with the registration keys or certificates for any Software (“Subscription Start Date”) and will expire at the end of the Subscription Term, if not terminated earlier in accordance with this Section. Either party may terminate a Subscription Term for cause if the other party is in material breach and fails to cure such breach within 30 days from receipt of notice by the other party. In addition, either party may terminate a Subscription Term upon notice if the other party voluntarily files for bankruptcy, is the subject of involuntary bankruptcy proceedings that are not dismissed within 60 days, ceases to do business, or otherwise terminates its business operations. Because we utilize your actual usage figures, as reported by you, to set your Annual Usage for subsequent Billing Terms, we may terminate your subscription in the event that you fail to comply with all reporting requirements, including the submission of Usage Reports, within applicable cure periods. Upon expiration or termination of the Subscription Term, you will promptly destroy all Software (including all Software Instances), license keys, documentation and any other F5 materials in your

possession or control and, upon our request, provide us with a written statement from an individual in your organization who is authorized to certify to such destruction.

6. Definitions.

- a. "Annual Term" means the twelve (12) month period beginning on the Subscription Start Date and each subsequent twelve (12) month period ending on the final day of the Subscription Term.
- b. "Annual Growth" means the average of the Run Rates in a Billing Term minus the immediately preceding Annual Term's Annual Usage. By way of illustration, if the Annual Usage is \$100k, and the Run Rates for the corresponding Billing Term are \$110k, \$120k and \$130k respectively, the Annual Growth will be $(\$10k + \$20k + \$30k) / 3$, or \$20k.
- c. "Annual Usage" means your subscription commitment for an Annual Term. For your first Billing Term your Annual Usage will be equal to the Initial Usage, and for subsequent Billing Terms your Annual Usage will be calculated by adding Initial Usage or the immediately preceding Billing Term's Annual Usage, as the case may be, and the applicable Annual Growth (and, for BIG-IP Cloud Edition subscriptions, fees for the Software Management Tool).
- d. "Billing Term" means the final Quarter of an Annual Term, as applicable.
- e. "Daily Total" means, with respect to each Day, the dollar amount calculated by adding together the Software Instance Values for each of the Software Instances active at any time on such Day.
- f. "Day" means a calendar day based on Coordinated Universal Time (UTC).
- g. "Deployment" or "Deploy" means the creation of an instance of BIG-IP Virtual Edition, installation and activation of an Nginx branded product, allocation of a Workload or activation of any other F5 Software product made available under this subscription.
- h. "Initial Usage" means a calculation of the total value of Software that you have subscribed to for the initial year based on F5's list price. For purposes of clarity, Initial Usage is used in the calculation of your annual true forward obligations during the Subscription Term, and does not represent the end user pricing that you will pay to your Reseller.
- i. "Software Instance Value" means, with respect to each Software Instance, the value for such Software Instance as set forth on your Quote.
- j. "Software Management Tool" means the Software Instance management functionality used to license and report on your Software Instances.
- k. "Usage Report" means a report generated for a specific Software product that sets forth the overall Deployment activity for a given month (e.g., number and type of BIG-IP Virtual Editions, Nginx Software or other Software Deployed).
- l. "Quarter" means each period of three months starting in the first full month after the Subscription Start Date.
- m. "Retire" means to remove a Software Instance from Deployment.
- n. "Run Rate" means, with respect to each month, the dollar amount calculated by dividing (i) the aggregate of Daily Totals for the Days in such month by (ii) the number of Days in such month. In the event that the Run Rate for a given month during a Billing Term is less than the Initial Usage, the Run Rate for such month will be equal to this Initial Usage (i.e., the Run Rate can never be less than the Initial Usage).
- o. "Software Instance" means each separate copy of a Software instance Deployed by you under this subscription.
- p. "Subscription Activity Report" means the report for a given calendar month generated by F5 based on the applicable Usage Report(s) setting forth the additional Software Instances Deployed by you during such calendar month.

III. Direct Sale Terms

The following terms will apply in the event you are permitted to make purchases directly from F5.

1. If you are permitted to purchase Software directly from us, we will send you an invoice and the payment terms in this paragraph will apply to your payment to us. For purchases directly from us, payment terms will be net 30 days from date of invoice, and all payments will be made in US dollars. We may accept payment in any amount without prejudice to our right to recover the balance of the amount due or to pursue any other right or remedy. No endorsement or statement on any check or payment or in any letter accompanying a check or payment or elsewhere will be construed as an accord or satisfaction.
2. If you are purchasing directly from us and fail to make any payment when due, and fail to cure any non-payment within 30 days of notice from us, we may, at our option, suspend Software access until the past-due payment is made, or terminate your subscription for material breach. In addition, overdue payments may be charged interest at the lesser of 1.5% per month or the maximum interest allowed by law. If we are required to retain a collection agency or attorney to collect overdue payment, all reasonable collection costs, including attorney fees, will be payable by you.

3. You will be responsible for payment of any sales tax, value added tax, or similar tax arising from the purchase of the Products and Services as applicable, excluding taxes on our net income. If any applicable law requires you to withhold amounts from any payments to us under any agreement, (a) you will effect the withholding, remit any required amounts to the appropriate taxing authorities and promptly furnish us with tax receipts as evidence of payment and (b) the sum payable by you upon which the deduction or withholding is based will be increased to the extent necessary to ensure that, after the deduction or withholding, we receive and retain, free from liability for deduction or withholding, a net amount equal to the amount we would have received and retained absent the required deduction or withholding.

IV. Additional Terms

We may make changes to these Program Terms from time to time, provided that such changes that do not materially reduce your rights hereunder. We will notify you of any material changes to these Program Terms either by email or through the MyF5 portal. The modified terms will become effective upon notification. By continuing to access and use any licensed Software after the date of notification, you agree to be bound by the modified terms. It is your responsibility to check MyF5 regularly for modifications to these Program Terms.