



Enterprise Software Licensing Guide and Checklist

Definition

Enterprise Software License (ESL) or simply Enterprise License (EL) is a widely used term applied to commercial software licensing. Though widely used, there is no single, uniform definition of an EL, specifically because all ELs are different. One good industry standard definition of an EL applicable to DoD follows:

“A software license that covers a defined community of users, with common products, quantities, and overall software usage rights granted in the terms and conditions of the EL. Typically this defined community of users must interface with the Software Publisher/Licensors through a single point of contact for payments, technical support, product releases, and contractual actions, regardless of the internal issues inherent with the community of users acting as a single entity.”

Applicability—When Does an Enterprise License Make Sense?

The larger and more homogenous the community of users, and the more common their requirements, the more likely it is that an EL makes sense, as a properly negotiated and managed EL offers tremendous efficiencies and cost savings. Generally, if an organization is under a common management chain of command and common budgetary/financial authority, there tend to be very few issues standing in the way of an EL. When chain of command and/or budgetary/financial authority are not common, the community of users must be able to overcome any differing requirements, processes, and procedures that inhibit acting as a single point of contact with the Software Publisher/Licensors, both at the time of the initial EL execution and going forward in time for the life of the EL.

How to Establish an EL (and Make it Work)

The first question we must ask ourselves when considering establishing an EL is: Can we make it work? Is our community of potential users homogenous enough from a requirements standpoint that common licensing is reasonable? Do we have common chain of management and budgetary authority? If we plan to establish a multi-organizational EL, can we establish a cross-organizational process for acquisition, financial transfers, maintenance/product support, and configuration control that will last from acquisition through the duration of the EL? If so, we should use a one-team approach and establish a cross-organizational, special IT Acquisition Cadre composed of highly trained, experienced acquisition professionals representing Contracting Officers (KOs), Program Managers (PMs), Contracting Officer’s Representatives (CORs), End-User Liaisons, Software Procurement Experts, Cost/Price Analysts, and IT Management Specialists. Using a team approach, we should:

- Gather Data including identifying our requirements.
- Analyze existing information from current contracts and vendor sources.
- Strategize our approach including desired outcome.
- Negotiate an EL that represents Best Value to the DoD and U.S. Government.

Common Elements of an Enterprise License

An Enterprise License is a custom grant of software usage rights designed to fit the specific requirements of the defined community of users. Thus, it is safe to say that no two ELs are exactly alike. Each EL represents the culmination of negotiations between a community of users (through a single point of contact) and the Software Publisher/Licensor, resulting in a set of software usage rights and restrictions that apply to the user community.

Often terms such as **unlimited** or **unrestricted** are used in describing attributes of an EL. These terms sound good, but are not technically accurate. No Software Publisher/Licensor is willing to grant unlimited or unrestricted use--they would essentially be allowing the entire world to utilize their software and source code for no additional fees beyond those fees collected under a single EL. There are always limits and restrictions that bind the community of users to agreed-upon use parameters. These limits may be quite far reaching and broad ranging, but there are limits. These limits and restrictions (in addition to basic software licensing terms and conditions such as use of source code) are defined by the specific terms and conditions of the EL, and typically cover issues including:

Definition of the Organization/Program/Community of Users authorized for use under the EL.

Identification of Programs and Products Licensed under the EL, including whether the items are licensed on an EL basis or a measured basis. Measured bases include Number of Named Users, Number of Concurrent Devices, Number of Processors, Number of Employees, etc.

Quantities or Use Metrics such as number of users in the EL, size of the EL, number of records, etc.

Specific details regarding development use rights versus user/runtime use rights, especially involving external facing applications (accessed by users outside the organization).

Geographic limits of both program/product location and user location.

Definition of use surrounding Hot, Warm, and Cold Back-up.

Enterprise License Attribute Checklist

Enterprise License (EL) Element	Description	Applies (Y/N)																
Community/Organization Wide License	A large group of users with common requirements for the same (or extremely similar) software functionality uses an EL to aggregate the individual or multiple-group needs into an over-arching software license that covers the common requirements. Significant cost and administrative savings can be realized, and an organization can gain great efficiencies operating under a common license with common terms, instead of attempting to manage and support a large number of licenses with disparate terms, conditions, and costs.																	
Customized Terms and Conditions	A common set of negotiated customized license use rights (different from Publisher’s Standard EULA) is a key indication that an EL exists. (Read more – see below)																	
	The common set of customized license use rights under common license management is the key difference between an Enterprise License (EL) and a standard software license with pre-established use rights. Generally, standard licenses are procured via a contractual vehicle with established Terms and Conditions (Ts & Cs) including usage rights. In some cases, Ts & Cs can be modified through negotiation, but that occurs on an individual basis with each license sale. The following chart illustrates key differences between an EL and a Standard License:																	
	<table border="1"> <thead> <tr> <th data-bbox="539 1230 928 1272">Standard License</th> <th data-bbox="935 1230 1367 1272">Enterprise License</th> </tr> </thead> <tbody> <tr> <td data-bbox="539 1272 928 1323">Single User or Small Group of Users</td> <td data-bbox="935 1272 1367 1323">Community/Organization Wide License</td> </tr> <tr> <td data-bbox="539 1323 928 1373">Standard Terms and Conditions</td> <td data-bbox="935 1323 1367 1373">Customized Terms and Conditions</td> </tr> <tr> <td data-bbox="539 1373 928 1423">Each License has Point of Contact w/Licensor</td> <td data-bbox="935 1373 1367 1423">Single Point of Contact w/Licensor</td> </tr> <tr> <td data-bbox="539 1423 928 1474">Multiple Payers – One per License</td> <td data-bbox="935 1423 1367 1474">Single Payer for Entire EL</td> </tr> <tr> <td data-bbox="539 1474 928 1524">Narrowly Defined Usage Rights</td> <td data-bbox="935 1474 1367 1524">Community Wide Usage Rights</td> </tr> <tr> <td data-bbox="539 1524 928 1575">Program/Product Set for each License</td> <td data-bbox="935 1524 1367 1575">Same Product/Program set for Community</td> </tr> <tr> <td data-bbox="539 1575 928 1625">Specific Usage Rights per License</td> <td data-bbox="935 1575 1367 1625">Common Usage Rights across EL</td> </tr> </tbody> </table>	Standard License	Enterprise License	Single User or Small Group of Users	Community/Organization Wide License	Standard Terms and Conditions	Customized Terms and Conditions	Each License has Point of Contact w/Licensor	Single Point of Contact w/Licensor	Multiple Payers – One per License	Single Payer for Entire EL	Narrowly Defined Usage Rights	Community Wide Usage Rights	Program/Product Set for each License	Same Product/Program set for Community	Specific Usage Rights per License	Common Usage Rights across EL	
	Standard License	Enterprise License																
	Single User or Small Group of Users	Community/Organization Wide License																
	Standard Terms and Conditions	Customized Terms and Conditions																
	Each License has Point of Contact w/Licensor	Single Point of Contact w/Licensor																
	Multiple Payers – One per License	Single Payer for Entire EL																
	Narrowly Defined Usage Rights	Community Wide Usage Rights																
Program/Product Set for each License	Same Product/Program set for Community																	
Specific Usage Rights per License	Common Usage Rights across EL																	

Enterprise License (EL) Element	Description	Applies (Y/N)
Grant of License to Use Software in Perpetuity	ELs are managed by the Customer, which essentially requires a Perpetual License grant.	
Customer Single Point of Contact (POC) w/Licensor	An EL will have one Point Of Contact (although sometimes a few people in a department for either the customer and/or the Licensor may serve as the single POC). Each member of the POC group will be extremely familiar with the EL, its Terms and Conditions, and the Requirements of both Parties under the EL.	
Customer Single Point of Contact w/Licensor—Acquisition	The initial EL will be signed by one POC from each Party—the Customer and the Licensor.	
Customer Single Point of Contact w/Licensor—All Payments	One payment (on time) is made to the Licensor for all transactions—even if it requires a consolidator on behalf of several customer organizations. Generally, the Licensor will not agree to multiple payers and multiple payment approval cycles, and will not accept fragmented payments.	
Customer Single Point of Contact w/Licensor—Annual Maintenance	Annual Maintenance payments and changes will be negotiated by one POC from each party—the Customer and the Licensor.	
Customer Single Point of Contact w/Licensor—Technical Support	The customer will have one person (or a very limited set of individuals) that is allowed to contact the Licensor for Technical Support. The Licensor will have a similar very limited set of individuals allowed to provide or coordinate Technical Support internally.	
Customer Single Point of Contact w/Licensor—Product Upgrades and Updates	The customer will have one person (or a very limited set of individuals) that is allowed to contact the Licensor for Product Upgrades and Updates. The Licensor will have a similar very limited set of individuals allowed to provide or coordinate Product Upgrades and Updates internally.	
Customer Single Point of Contact w/Licensor—Contractual Actions / Management	Contractual Actions and EL Management issues will be addressed and signed by one POC from each Party—the Customer and the Licensor.	
Defined Price for License Usage Rights	One Price will be charged for the initial EL, and future amounts may be specified for additions or changes to the EL.	

Enterprise License (EL) Element	Description	Applies (Y/N)
Defined Price for Maintenance	One Price will be charged for the annual maintenance, adjusted annually for additions or other changes to the EL.	
Defined Quantity	The EL will define the User Community that is granted unmeasured use for certain programs, and specific quantities of other programs.	
	<p>A common misconception is that an Enterprise License grants unlimited use. Generally there are numerous quantity, activity, and functional limits on use. For example, it is highly improbable that any Enterprise License would grant the licensee the right to make and distribute unlimited copies of the programs. Essentially, there are always limits.</p> <p>Within an Enterprise License, the size of the Enterprise is often defined (for example 5,000 Named Users, or 100 Servers, or 700 Concurrent Devices, etc.). Often some Programs are granted unlimited use within the defined quantities of the Enterprise. Once usage exceeds those ceiling amounts, the EL must be modified to permit the higher quantities.</p> <p>Some Programs within the EL may have a defined maximum that is less than the size of the Enterprise (for example, 50 Named Users of a particular Program).</p> <p>When Programs are external facing (for example data accessed via the Internet using these Programs) and a defined quantity of external users cannot be predicted nor determined, the EL will specify the metric (processors, servers, etc.) that are licensed. Some ELs may grant unlimited public access to the website and data contained within. In this case, use restrictions will prohibit general public direct access to, and use of, the Programs.</p>	
Common Product Set is Granted	The EL will define the Programs/Product set and use granted.	
	An Enterprise License will define the specific software programs (products) that are licensed for use. Some programs may be used without limits (see below) within the Enterprise, while some may be licensed for specific maximum quantities to be used. The set of authorized Programs will generally be a subset of the Publisher's available Programs, and will not contain rights to future Programs or guarantees of future functionality.	

Enterprise License (EL) Element	Description	Applies (Y/N)
Potential Usage Restrictions	ELs are not “Unlimited/Unrestricted Use”. They can detail varying usage restrictions in the EL Agreement. (Read more – see Use Restrictions/Details paragraph below)	
Agreement Directly with the Publisher	Since an EL involves use of Intellectual Property of the Publisher, the Publisher will either hold the EL directly with the Customer or will sign as a 3rd Party in the Agreement.	

Use Restrictions/Details

A central premise to any EL is to define allowable (and thus exclude unallowable) software Program use. In addition to quantity limitations discussed above, there are six common use restrictions:

1) Use Limited to Members of the Enterprise as Defined

The EL contains a definition of the Enterprise (e.g. all employees of XYZ Company and up to 50 contractors/ business partners) and use is only allowed by those falling within that definition and for Enterprise use only. Sometimes the Enterprise may be defined as a business unit, a division, certain branches, etc. Often usage will be specifically allowed to businesses or people who are associated with the Enterprise such as vendors, contractors, and customers, but their use is restricted to the Enterprise functions only. A vendor does not gain access to the Programs for any use other than their interface with the Enterprise.

2) Use Limited to Enterprise Activities

As mentioned above, the EL will restrict use to normal business activities of the Enterprise. It will not allow the Enterprise to perform hosting, perform other Enterprises’ business activities, or generally circumvent the need for other entities to acquire their own license rights to the Programs for their own internal use. Special Licenses are granted under those circumstances.

3) Use Limited to Specific Geography

Some Enterprise Licenses specify certain addresses, locations, or areas where the Program may be used. While some limitation may be understandable (US-Based Operations, etc.), this restriction may cause loss of use if the Enterprise (or part of the Enterprise) is relocated for unrelated operational reasons. Specific geographic restrictions should be avoided, unless the restriction is aimed at issues (i.e. transferability) other than restricting the mobility of a licensed Enterprise.

4) Program Use Limitations

Many Enterprise Licenses specify classes of users, such as Developers, Application Users, and External Users. For example an EL may allow unrestricted internal full use for a specific number (e.g. 200) of Developers and Programmers. The rest of the Enterprise (as defined) may be licensed as Application Users, without programming/developer rights. Finally, some sort of grant is made for External (Internet) users.

5) Application Specific Use Limitations

When initially acquiring software, some buyers only see an immediate need for use of the Programs for one specific application (e.g. Human Resources). As part of negotiations to reduce cost, the buyer obtains a significantly lower price by contractually agreeing to limit use of the Programs to that specific application. This is called an Application Specific License, and is sometimes found as part of an EL.

At some point in the future, personnel within the Enterprise may want to use the Programs for additional Applications (Logistics, Financials, Inventory, etc.). Mistakenly, they believe they are already licensed for use of the Programs, while in fact they must acquire the rights to use the Programs for additional applications.

While it is possible to save costs using an Application Specific License, it is not recommended for an organization that may expand use of the Programs to other Applications in the future.

6) Requirement for Uninterrupted Acquisition of Software Maintenance/Support

Often the software use rights granted under the EL are contingent upon remaining current on software maintenance/support. The rights of the EL are often rescinded if the Enterprise elects to stop support of the licenses.

Summary

An Enterprise License is an organization-wide software license that provides common usage rights to a population of users, while interfacing with the Software Publisher/Licensor under a single point of contact. The EL is customized to the organization's requirements, but only makes sense where any life-cycle cross-organizational issues (funding, configuration control, etc.) can be resolved while maintaining the integrity of the single point of contact. To establish an EL, a Team Approach should be undertaken, utilizing functional expertise from within the Government, and approached in a manner that achieves Best Value.