



## PUBLIC SECTOR LICENSE AND TECHNICAL SUPPORT TERMS AND CONDITIONS

These Public Sector Terms and Conditions (“these Terms and Conditions”) apply to the Oracle software programs and support services that you order from the Contractor through orders issued pursuant to the \_\_\_\_\_ (the “Contract”). These Terms and Conditions shall take precedence over any conflicting terms in the Contract or any order issued pursuant to the Contract.

### A. Definitions

“You” and “your” refers to the governmental entity that has ordered programs, and/or services from an authorized distributor (“Contractor”) under your Contract.

The term “ancillary programs” refers to third party materials specified in the program documentation which may only be used for the purposes of installing or operating the programs with which the ancillary programs are delivered.

The term “program documentation” refers to the program user manual and program installation manuals.

The term “programs” refers to the software products owned or distributed by Oracle (through the Contractor) which you have ordered, program documentation, and any program updates acquired through technical support.

The term “services” refers to technical support services which you have ordered.

### B. Rights Granted

Upon Contractor’s acceptance of your order, you have the non-exclusive, non-assignable, royalty free, perpetual (unless otherwise specified in your order with Contractor), limited right to use the programs and receive any services you ordered solely for your internal ordering activity operations and subject to the terms of the Contract, including these Terms and Conditions, the Oracle License Definitions and Rules, and the program documentation. You may allow your agents and contractors (including, without limitation, outsourcers) to use the programs for this purpose and you are responsible for their compliance with this Contract in such use. For programs that are specifically designed to allow your customers and suppliers to interact with you in the furtherance of your internal business operations, such use is allowed.

### C. Ownership and Restrictions

Oracle or its licensors retain all ownership and intellectual property rights to the programs. Oracle retains all ownership and intellectual property rights to anything developed by Oracle and delivered under this contract resulting from services. You may make a sufficient number of copies of each program for your licensed use and one copy of each program media.

Third party technology that may be appropriate or necessary for use with some Oracle programs is specified in the program documentation. Such third party technology is licensed to you under the terms of the third party technology license agreement specified in the program documentation and not under the terms of the Contract.

You may not:

- use the programs in a rental, timesharing, subscription service, hosting or outsourcing capacity;
- remove or modify any program markings or any notice of Oracle’s or its licensors’ proprietary rights;

- make the programs or materials resulting from the services available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific program license or materials from the services you have acquired);
- cause or permit reverse engineering (unless required by law for interoperability), disassembly or decompilation of the programs (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs), operating system or integrated software; or
- disclose results of any program benchmark tests.

#### **D. Warranties, Disclaimers and Exclusive Remedies**

Oracle warrants that a program licensed to you will operate in all material respects as described in the applicable program documentation for one year from delivery (i.e. via physical shipment or electronic download). You must notify Oracle of any program warranty deficiency within one year from delivery. **ORACLE DOES NOT GUARANTEE THAT THE PROGRAMS WILL PERFORM ERROR-FREE OR UNINTERRUPTED, OR THAT ORACLE WILL CORRECT ALL PROGRAM ERRORS.**

Oracle also warrants that services will be provided in a professional manner consistent with industry standards. You must notify Oracle of any services warranty deficiencies within 90 days from performance of the deficient services.

**FOR ANY BREACH OF THE ABOVE WARRANTIES, YOUR EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE: (A) THE CORRECTION OF PROGRAM ERRORS THAT CAUSE BREACH OF THE WARRANTY; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT SUCH BREACH IN A COMMERCIALY REASONABLE MANNER YOU MAY END YOUR PROGRAM LICENSE AND RECOVER THE FEES PAID TO ORACLE FOR THE PROGRAM LICENSE DISTRIBUTED TO YOU; OR (B) THE REPERFORMANCE OF THE DEFICIENT SERVICES PROVIDED BY ORACLE; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THOSE SERVICES AND RECOVER THE FEES PAID TO ORACLE FOR THE DEFICIENT SERVICES PROVIDED BY ORACLE TO YOU.**

**TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS WITH RESPECT TO THE ABOVE ITEMS, INCLUDING ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

#### **E. Technical Support**

Technical support consists of annual technical support services you may have ordered for the programs.

If ordered, annual technical support (including first year and all subsequent years) for programs is provided under Oracle's technical support policies in effect at the time the services are provided. The technical support policies, incorporated herein, are subject to change at Oracle's discretion; however, Oracle policy changes will not result in a material reduction in the level of services provided for supported programs during the period for which technical support has been ordered. You should review the policies prior to entering into an order for the applicable services. You may access the current version of the technical support policies at <http://www.oracle.com/us/support/policies/index.html>. Java SE Support (or any successor technical support offering to Java SE Support) acquired with your order may be renewed annually. The order with Contractor will specify your Java SE Support fee for the first renewal year should you renew Java SE Support as contained in the original order; the fee for Java SE Support for the second renewal year will not increase by more than 4% over the prior year's fees. Java SE Support is effective upon the effective date of the order. Software Update License & Support (or any successor technical support offering to Software Update License & Support, "SULS") acquired with your order may be renewed annually. The order with Contractor will specify your SULS fee for the first renewal year should you renew SULS for the same number of licenses for the same programs as contained in the original order; the fee for SULS for the second renewal year will not increase by more than 4% over the prior year's fees. If you elect not to purchase technical support at the time that the program is ordered, then

you may be required to pay reinstatement fees in accordance with Oracle's technical support policies in effect at the time of reinstatement if you decide to purchase technical support at a later date. Technical support for programs is effective upon shipment of tangible media or upon the effective date of the order if shipment of tangible media is not required.

Invoices for technical support services shall be submitted by Contractor on a quarterly basis (unless otherwise specified in the order) after the completion of such period.

Notwithstanding anything in Oracle's technical support policies to the contrary, you may discontinue technical support at the end of any current technical support term and, at any time thereafter, reinstate technical support by executing an order for such services with Contractor. If you decide to reinstate technical support, you must pay a reinstatement fee. The reinstatement fee shall be the amount that would have been paid by the ordering activity for the past support period had technical support not lapsed. In addition to the reinstatement fee described in the preceding sentence, you must pay the technical support fee for the new support period. This technical support fee for the new support period is computed as follows: (i) if technical support lapsed, then the technical support fee for a twelve month support period shall be the last annual technical support fee you paid for the relevant program; (ii) if you never acquired technical support for the relevant program, then the annual technical support fee shall be the fee that would have been charged if support had been ordered originally for the relevant program per Oracle's Support pricing policies in effect at the time of reinstatement. Renewal adjustments may be applied to the annual support fee described in (i) and (ii) above.

#### **F. Intellectual Property Indemnification**

If someone makes a claim against you or Oracle ("Recipient" which may refer to you or Oracle depending upon which party received the Material), that any information, design, specification, instruction, software, data, or material ("Material") furnished by either you or Oracle ("Provider" which may refer to you or Oracle depending on which party provided the Material), and used by the Recipient infringes its intellectual property rights (including U.S. or foreign patent, trademark and copyright), the Provider will indemnify the Recipient against the claim to the extent permitted by law if the Recipient does the following:

- o notifies the Provider promptly in writing, not later than 30 days after the Recipient receives notice of the claim;
- o gives the Provider control of the defense, with input from Recipient, and any settlement negotiations; and
- o gives the Provider the information, authority, and assistance the Provider needs to defend against or settle the claim.

If the Provider believes or it is determined that any of the Material may have violated someone else's intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for, and require return of, the applicable Material. If you are the Provider and such return materially affects Contractor's ability to meet its obligations under the relevant order (e.g., impairs Contractor's ability to perform due to a work statement, schedule or cost impact), then Contractor may, at its option and upon 30 days prior written notice, request termination of the order. The Provider will not indemnify the Recipient if the Recipient alters the Material or uses it outside the scope of use identified in the Provider's user documentation or if the Recipient uses a version of the Materials which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was provided to the Recipient. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by the Provider. Oracle will not indemnify you to the extent that an infringement claim is based upon the combination of any Material with any products or services not provided by Oracle. Oracle will not indemnify you for infringement caused by your actions against any third party if the Oracle program(s) as delivered to you and used in accordance with the terms of this agreement would not otherwise infringe any third party intellectual property rights. Oracle will not indemnify you for any

infringement claim that is based on: (1) a patent that you were made aware of prior to the effective date of this agreement (pursuant to a claim, demand, or notice); or (2) your actions prior to the effective date of this agreement. This section provides your and Oracle's exclusive remedy for any infringement claims or damages.

#### **G. Other**

1. You may not assign orders or give or transfer the programs and/or any services or an interest in them to another individual or entity. If you grant a security interest in the programs and/or any services deliverables, the secured party has no right to use or transfer the programs and/or any services deliverables, and if you decide to finance your acquisition of programs and/or any services, you will follow Oracle's policies regarding financing which are at <http://oracle.com/contracts>. The foregoing shall not be construed to limit the rights you may otherwise have with respect to the Linux operating system, third party technology or separate works licensed under open source or similar license terms.
2. In entering into an order under the Contract, you agree and acknowledge that you have not relied on the future availability of any program or updates. However, (a) if you order technical support, the preceding sentence does not relieve Oracle of its obligation to provide such technical support under the relevant order, if and when available, in accordance with Oracle's then current technical support policies, and (b) the preceding sentence does not change the rights granted to you for any program licensed under the order, per the terms of the Contract, including these Terms and Conditions.
3. The extent to which an Oracle program is, at the time of delivery, capable of providing comparable access to individuals with disabilities is indicated by the comments and exceptions (if any) specified on the applicable Voluntary Product Accessibility Template (VPAT) available at [www.oracle.com/us/corporate/accessibility](http://www.oracle.com/us/corporate/accessibility), provided that such Oracle program is used in accordance with the applicable Oracle program documentation and that any assistive technologies and any other products used with the Oracle product properly interoperate with the Oracle product. The VPAT indicates the degree of conformance with the applicable provisions of the Architectural and Transportation Barriers Compliance Board standards set out in 36 CFR Part 1194 (known as "Section 508"). In the event that Section 508 is revised over the life of the contract Agreement, the VPAT will indicate the applicable version. The VPAT also lists the degree of conformance with the Web Content Accessibility Guidelines (WCAG) if applicable (said standards only apply to "web pages"). In the event that no VPAT is available for a particular product, please contact the Oracle Accessibility Program Office at [accessible\\_ww@oracle.com](mailto:accessible_ww@oracle.com). Oracle makes no representations regarding the accessibility status of any product identified as "third party."
4. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the programs. You agree that such export laws govern your use of the programs (including technical data), and any services deliverables provided under the contract, and you agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). You agree that no data, information, program, and/or materials resulting from services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.
5. The Uniform Computer Information Transactions Act does not apply to these Terms and Conditions nor any order placed pursuant to them.
6. You understand that the Contractor and Oracle's business partners, including any third party firms retained by you to provide computer consulting services, are independent of Oracle and are not Oracle's agents. Oracle is not bound by any acts of any such entity, unless the entity is providing services as an Oracle subcontractor under an engagement ordered directly with Oracle.

7. You may order trial programs, or Oracle may include additional programs with your order with Contractor which you may use for trial, non-production purposes only. You may not use the trial programs to provide or attend third party training on the content and/or functionality of the programs. You have 30 days from the delivery date to evaluate these programs. If you decide to use any of these programs after the 30-day trial period, you must obtain a license for such programs from Oracle or an authorized distributor. If you decide not to obtain a license for any program after the 30 day trial period, you will cease using and delete any such programs from your computer systems. Programs licensed for trial purposes are provided "as is" and Oracle does not provide technical support or offer any warranties for these programs.
8. Unless otherwise agreed in an order, upon 45 days written notice, and no more than once annually, Contractor may audit your use of the programs. You agree to cooperate with Contractor's audit, provide reasonable assistance and access to information and permit Contractor to report the audit results to Oracle. Any such audit shall not unreasonably interfere with your normal business operations. Contractor shall comply with reasonable security and safety rules, policies, and procedures ("security rules") while performing any such audit, provided that such security rules are applicable to the performance of the audit; you make such security rules available to Contractor prior to the commencement of the audit; and such security rules do not modify or amend the terms and conditions of the contract or the applicable order. You shall be responsible for paying any underpaid fees related to use of the programs. Contractor may assign its right to audit your use of the programs to Oracle. If the Contractor assigns its right to audit your use of the programs to Oracle, then Oracle shall not be responsible for any costs incurred by either you or Contractor in cooperating with the audit.
9. Upon termination of a program license, you are required to discontinue use and destroy or return to the Contractor all copies of the programs and program documentation associated with the terminated license.
10. Source code may be delivered as part of the standard delivery for particular programs; all such source code is subject to the terms of the contract, including these Oracle Terms and Conditions, the applicable order and the applicable program documentation.
11. You are responsible for ensuring compliance with the application licensing prerequisites as specified in the Applications Licensing Table, the current version of which may be accessed at <http://oracle.com/contracts>.
12. Oracle, as the owner of the intellectual property of the program licenses and the technical support services, is a third party beneficiary of any order placed under these Terms and Conditions, but does not assume any of Contractor's obligations thereunder.
13. Oracle's License Definitions and Rules are incorporated herein and attached hereto as Exhibit A.
14. If any document incorporated by reference into these Terms and Conditions, including the License Definitions and Rules and terms included and/or referenced therein, contains a provision allowing for the automatic renewal of services and/or fees; such terms shall not apply.