



SUPPLEMENTAL TERMS AND CONDITIONS

ORACLE USA, INC. (“ORACLE”) IS A FIRST TIER SUBCONTRACTOR UNDER THIS CONTRACT. THESE SUPPLEMENTAL TERMS AND CONDITIONS APPLY TO ALL ORACLE PROGRAMS AND ALL ORACLE SERVICES DELIVERED BY ORACLE THAT AN ORDERING ACTIVITY ORDERS FROM THE CONTRACTOR UNDER THE CONTRACT. IF THERE IS ANY INCONSISTENCY BETWEEN THESE SUPPLEMENTAL TERMS AND CONDITIONS AND THE CONTRACT, THE SUPPLEMENTAL TERMS AND CONDITIONS APPLY.

SECTION I INFORMATION FOR ORDERING ACTIVITIES APPLICABLE TO ALL SPECIAL ITEM NUMBERS

1. PAYMENT INFORMATION:

Ordering activities agree that they have not relied on the future availability of any Oracle programs or releases in entering into an order; however, (a) if the ordering activity orders Software Update License & Support (“SULS”) for Oracle programs, the preceding sentence does not relieve Oracle of its obligation to provide updates under the ordering activity’s 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 the ordering activity for any Oracle program licensed under the ordering activity’s order, per the terms of the ordering activity’s order and the contract.

2. SECTION 508 COMPLIANCE.

If applicable, Section 508 compliance information on Oracle programs is available for informational purposes only at the following: <http://www.oracle.com/accessibility/>

Any requirements regarding Section 508 compliance for services to be delivered by Oracle must be expressly agreed to by Contractor and the ordering activity in the order.

For informational purposes only, the EIT standard can be found at: www.Section508.gov/.

3. SEGMENTATION

The services provided through an order under this contract may be related to licenses to use Oracle programs that were acquired under a separate agreement and/or order. That agreement and/or order shall govern use of such Oracle programs. Any services acquired through an order under this contract are offered separately from such program licenses. Ordering activities may acquire either Oracle services or Oracle program licenses without acquiring the other.

4. AUDIT

Unless otherwise agreed in an order, upon Contractor’s written request, no more frequently than annually, ordering activities shall perform an internal audit to verify their licensed use of Oracle programs. Ordering activities will furnish Contractor with a signed certification by an authorized representative of the ordering activity that Oracle programs are being used pursuant to the provisions of the order, including an accounting of licensed quantities. If such verification is not provided within 30 days of Contractor’s written request, or if Contractor provides a reasonable basis for asserting that the ordering activity’s actual use does not comply with its license for Oracle programs, ordering activities agree to cooperate with Contractor to audit the use of the Oracle programs provided under any order and to provide reasonable assistance and access to information to ascertain the ordering activity’s actual use. Ordering activities will be responsible for either paying any underpaid fees related to use of Oracle programs or for discontinuing noncompliant use. Contractor may assign its right to audit to Oracle.

5. OTHER

a) Export. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Oracle programs. The ordering activity agrees that such export control laws govern use of the Oracle programs (including technical data) and any Oracle services deliverables provided pursuant to an order under this contract, and to comply with all such export laws and regulations (including “deemed export” and “deemed re-

export” regulations); additional information can be found on Oracle’s Global Trade Compliance web site located at <http://oracle.com/contracts>. The ordering activity agrees that no data, information, Oracle program and/or materials resulting from Oracle 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.

- b) No Assignment of Orders, Licenses Or Services. The ordering activity may not assign orders or give or transfer the Oracle programs and/or any services ordered or an interest in them to another individual or entity. If an ordering activity grants a security interest in the Oracle programs and/or any Oracle services deliverables, the secured party has no right to use or transfer the Oracle programs and/or any Oracle services deliverables, and if an ordering activity decides to lease or finance the acquisition of the Oracle programs and/or any Oracle services, it will follow Oracle’s policies regarding financing and leasing which are at <http://oracle.com/contracts>.
- c) Source Code. Oracle may deliver source code as part of its standard delivery for particular Oracle programs; all source code delivered by Oracle is subject to the terms of the contract, order and documentation.
- d) Uniform Computer Information Transaction Act. The Uniform Computer Information Transaction Act is not applicable to any order for Oracle programs under the contract.
- e) Independent Contractor. The contractor is not Oracle’s agent. Oracle is not liable for (a) any professional services provided to the ordering activity by the contractor or any third party firm retained by the contractor nor (b) any acts of the contractor or third party firm retained by the contractor.

SECTION II

TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-32), PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33) AND MAINTENANCE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE

1. TECHNICAL SUPPORT

Maintenance consists of annual technical support services an ordering activity may have ordered for the Oracle programs. If ordered, annual technical support (including first year and all subsequent years) is provided by Oracle under Oracle’s technical support policies in effect at the time the services are provided. Oracle’s technical support policies, incorporated in this contract, are subject to change at Oracle’s discretion; however, Oracle will not materially reduce the level of services provided for supported Oracle programs during the period for which technical support has been ordered. Ordering activities should review Oracle’s technical support policies prior to placing orders for the applicable services. Ordering activities may access the current version of Oracle’s technical support policies at <http://oracle.com/contracts>. Technical support is effective upon the effective date of the order unless otherwise stated in the ordering activity’s order. Software Update License & Support (or any successor technical support offering to Software Update License & Support, “SULS”) acquired with an ordering activity’s order may be renewed annually. The order will specify the ordering activity’s technical support fee for the first renewal year should the ordering activity renew SULS for the same number of licenses for the same Oracle programs as contained on the original order. If the ordering activity elects not to purchase technical support at the time that the program licenses are ordered, then the ordering activity will be required to pay reinstatement fees in accordance with Oracle’s technical support policy if the ordering activity decides to purchase technical support at a later date.

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. Technical support services charges for SULS (or any successor technical support offering to SULS) are classified under SIN 132-34 as Software Maintenance as a Service and must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

2. LICENSE GRANT AND UTILIZATION LIMITATIONS - (132-32, 132-33, AND 132-34)

a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101. “Programs” includes all programs, software, databases, updates, documentation, media, and technical data licensed, developed and/or delivered to an ordering activity hereunder, all of which shall be deemed to be “commercial items” and “commercial computer software” pursuant to the FAR. Oracle may deliver third party materials specified in the

documentation that may only be used for the purposes of installing or operating the Oracle programs with which the third party materials are delivered.

- b. When acquired by the ordering activity, Oracle programs shall be subject to the following:
- (1) Title to and ownership of programs shall not pass to the ordering activity or to a third party; title to and ownership of the programs shall remain with Oracle, unless otherwise specified.
 - (2) Oracle programs are licensed by ordering activity. The Oracle programs may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has been licensed to use the Oracle programs, even if the subdivision did not participate in the acquisition of the Oracle programs, provided the terms of the applicable license conditions (including the requisite quantity or metric limitations) are satisfied. Definitions for the licensing metrics and term designation, as well as the licensing rules, are listed in **[You are to insert the appropriate exhibit/appendix number of your GSA Schedule contract for the pricing and terms of your contract items that are included in this agreement and any applicable terms contained in the Partner Ordering Policy]** of this Pricelist.
 - (3) Except as is provided in paragraph b (2) above, the ordering activity shall not provide or otherwise make available the Oracle programs, or any portion thereof, in any form, to any third party without the prior written approval of Oracle. Third parties do not include prime contractors, subcontractors and agents of the ordering activity who have the ordering activity's permission to use the licensed Oracle programs and documentation at the facility, and who have agreed to use the licensed Oracle programs and documentation only in accordance with these restrictions. This provision does not limit the right of the ordering activity to use Oracle programs, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.
 - (4) The ordering activity shall have the limited right to use the Oracle programs ordered by it solely for its internal business operations and subject to the terms of this contract and the order, including the definitions and rules set forth in the order and the documentation. An ordering activity may allow its agents and contractors to use the programs for this purpose, subject to the terms of this contract and any order. For Oracle programs that are specifically designed to allow the ordering activity's customers and suppliers to interact with the ordering activity in the furtherance of the ordering activity's internal business operations, such use is permitted under the contract and relevant order. Provided the terms of the applicable Oracle program license conditions (including the requisite quantity or metric limitations) are satisfied, for purposes of disaster recovery, an ordering activity has the right to transfer the Oracle programs acquired hereunder to another site if the ordering activity site for which the Oracle programs are acquired is deemed to be unsafe for ordering activity personnel; to copy the Oracle programs to a backup computer for use when the primary computer is inoperative; and, to copy the Oracle programs for safekeeping (archives) or backup purposes.
 - (5) Program documentation (in the form generally available) is either shipped with the Oracle programs, or an ordering activity may access the documentation online at <http://docs.oracle.com> (provided for informational purposes only).
 - (6) **Oracle retains all ownership and intellectual property rights to the Oracle programs and anything developed by Oracle and delivered to an ordering activity under this contract resulting from technical support services provided hereunder. An ordering activity may make a sufficient number of copies of each Oracle program for its licensed use and one copy of each program media.**
 - (7) Oracle may deliver third party technology that may be appropriate or necessary for use with some Oracle programs as specified in the documentation and that such third party technology is licensed to the ordering activity under the terms of the third party technology license agreement specified in the documentation and not under the terms of the contract and relevant order.
 - (8) Ordering activities may not:
 - remove or modify any of the Oracle program markings or any notice of Oracle's proprietary rights;
 - make the Oracle programs, or materials resulting from services provided, available in any manner to any third party for use in the third party's business operations under a rental, timeshare, subscription

service, hosting or outsourcing arrangement (unless such access is expressly permitted for the specific Oracle program license or materials from the Oracle services acquired);

- cause or permit reverse engineering (unless required by law for interoperability), disassembly or decompilation of the Oracle programs; or
- disclose results of any program benchmark tests without Oracle's prior written consent.

3. SOFTWARE CONVERSIONS - (132-32 AND 132-33)

Provided an ordering activity has continuously maintained technical support services for the relevant license set, in the event an ordering activity desires to change the operating system or the computer system on which the Oracle program(s) is running and requires the shipment of new binary software, the ordering activity may acquire the additional set(s) of media packs for the Oracle program(s) for the new operating system or computer system.

4. MIGRATIONS

A license migration is a means of contractually modifying an ordering activity's previously purchase Oracle program licenses. Any additional terms necessary to effectuate a migration will be contained on the relevant order.

5. TERMINATED LICENSES

Upon termination of a program license, the ordering activity is required to discontinue use and destroy or return to the contractor the all copies of the programs and program documentation associated with the terminated license.

6. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

A complete description of each Oracle program and a list of equipment on which the Oracle programs can be used, as well as a brief, introductory explanation of the Oracle programs and documentation that are offered are available at www.oracle.com/products/ and in Oracle's Software Investment Guide at www.oracle.com/corporate/pricing/, both of which are referenced for informational purposes only. A complete listing of the Oracle programs and any purchase minimums available under this contract is provided in the **[You are to insert the appropriate exhibit/appendix number of your GSA Schedule contract for the pricing and terms of your contract items that are included in this agreement and any applicable terms contained in the Partner Ordering Policy]** of this Pricelist.

7. TRIAL PROGRAMS

Oracle may include additional Oracle programs with an order that an ordering activity may use for trial, non-production purposes only ("trial programs"). Ordering activities may not use the trial programs to provide or attend third party training on the content and/or functionality of the programs. Ordering activities have 30 days from the delivery date to evaluate these trial programs. If an ordering activity decides to use any of these trial programs after the 30-day trial period, it must obtain a license for each Oracle program from Contractor. If an ordering activity decides not to obtain a license for any trial program after the 30-day trial period, it must cease using and delete any such Oracle programs from its computer systems. Trial programs licensed as described herein are provided "as is". Oracle does not provide technical support for trial programs nor does Contractor offer any warranties for trial programs.