



ORACLE OPEN SOURCE SUPPORT SERVICES (“OSSS”) GSA SUPPLEMENTAL TERMS AND CONDITIONS v012323

THESE OSSS GSA SUPPLEMENTAL TERMS AND CONDITIONS (“OSSS GSA STCs”) SHALL APPLY TO OSSS THAT YOU ORDER FROM THE CONTRACTOR UNDER THE CONTRACTOR’S GSA SCHEDULE CONTRACT (“THE CONTRACT”). THESE OSSS GSA STCs SHALL TAKE PRECEDENCE OVER ANY CONFLICTING TERMS IN ANY NON-ORACLE ORDER OR ORDERING DOCUMENTATION. THESE OSSS STCs ARE CONSIDERED PART OF THE SCHEDULE OF SUPPLIES/SERVICES IN YOUR ORDER TO THE CONTRACTOR.

A. Definitions

“You” and “your” refers to the ordering activity that has ordered services from an authorized distributor (“Contractor”) under the contract.

The term “contract” refers to the Contractor’s GSA Schedule contract.

The term “order” refers to the order placed under the contract inclusive of these terms expressly incorporated herein.

The term “covered programs” is defined as the specific set of software products listed on the document titled Oracle Linux and Oracle VM Covered Programs (available at <http://www.oracle.com/us/support/library/enterprise-linux-indemnification-069347.pdf>) for which you have ordered Oracle Linux Service Offering(s) and/or Oracle VM Service Offering(s), including any related program documentation and patches and bug fixes acquired through such services.

The term “Oracle Linux Service Offering(s)”, “Oracle VM Service Offering(s)”, and “Oracle Verrazzano Service Offering(s)” refer to Oracle Linux, Oracle VM and Oracle Verrazzano support services respectively as defined under the Oracle Open Source Support Policies.

The term “Service Offering(s)” means the Oracle Linux Service Offering(s), the Oracle VM Service Offering(s), and the Oracle Verrazzano Service Offering(s).

The term “Support term(s)” is defined as the duration for which you have acquired the Service Offering(s).

The term “Program Documentation” refers to the Program user manual and Program installation manuals. Program Documentations may be delivered with the Oracle Linux, Oracle VM and Oracle Verrazzano Programs. You may access the documentation online at <http://oracle.com/documentation>.

The term “term” is defined as the duration for which you have acquired the Service Offering(s).

B. Service Offering(s)

Upon Contractor’s acceptance of your order and subject to these OSSS GSA STCs, you have the limited right to receive the Service Offering(s) solely for your ordering activity operations and subject to the terms of the contract, including these OSSS GSA STCs, and the order.

For purposes of the order Service Offering(s) consist of Oracle’s technical support services level You may have ordered from Oracle or an authorized reseller for the Service Offering(s) (If ordered, Service Offering(s) (including initial year and all subsequent years) are provided under the Oracle Open Source Support Policies in effect at the time the Service Offering(s) are provided. The Oracle Open Source Support Policies, which are incorporated in Your Order, are subject to change at Oracle’s discretion in accordance

with GSA schedule Contract Clause 552.212-4(w)(vi)”; however, Oracle will not materially reduce the level of Service Offering(s) provided during the period for which fees for the Service Offering(s) have been paid. Service Offering(s) are available for certain systems, and may be subject to additional restrictions as set forth in the Oracle Open Source Support Policies. You should review the Oracle Open Source Support Policies prior to entering into the order for the applicable Service Offering(s). You may access the current version of the Oracle Open Source Support Policies at <http://www.oracle.com/contracts>

The Service Offering(s) are effective upon the effective date of Your order unless otherwise stated in Your order. If Your order was placed through the Oracle Store, the effective date is the date Your order was accepted by Oracle.

The Service Offering(s) provided under Your Order are in support of licenses You acquired separately. All patches, bug fixes and other code received as part of the Service Offering(s) under Your Order shall be provided under the terms of the appropriate license agreement that You accepted upon downloading and/or installing the Oracle Linux, Oracle VM and/or Oracle Verrazzano program(s). The Service Offering(s) may also include the right to use certain additional software or tools during the Support Term for which fees for Service Offering(s) have been paid. The license terms for any such software or tools, as well as any limitations associated with them, will be referenced in the Program Documentation.

C. Oracle Linux and Oracle VM Indemnification

Provided you are a current subscriber to the Oracle Linux Service Offering(s) and/or Oracle VM Service Offering(s), if a third party makes a claim against you, including the U.S. Government, and its officers, employees and agents, that any covered programs furnished by Oracle, and used by You for Your business operations infringes its intellectual property rights (including U.S. or foreign patent, trademark and copyright), Oracle, at its sole cost and expense, will defend You against the claim and indemnify You from the damages; liabilities, costs, and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by Oracle, if you do the following:

- Notify Oracle promptly in writing, not later than 30 days after you receive notice of the claim (or sooner if required by applicable law);
- Give Oracle control of the defense, with input from you, and any settlement negotiations, provided that for the U.S. Government the control of the defense and settlement is subject to 28 U.S.C. 516; and
- Give Oracle the information, authority, and assistance it needs to defend against or settle the claim.

If Oracle believes or it is determined that any Covered Programs may have violated a third party’s intellectual property rights, Oracle 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, then Oracle may, upon 30 days notice to you terminate your right to receive indemnification for your further use of the Covered Programs specified and refund any unused, prepaid service fees you may have paid for the Covered Programs. Notwithstanding the above, Oracle will not defend or indemnify you in connection with claims, damages, liabilities, costs or expenses arising out of, or caused by, or related to: (a) your distribution of the Covered Programs; (b) your alteration of the Covered Programs; (c) your use of a version of the Covered Programs which has been superseded, if the infringement claim could have been avoided by using the current version of the Covered Programs; (d) your use of the Covered Programs outside the scope of use identified in the user documentation or the Oracle Open Source Support Policies; (e) your use of the Covered Programs when you were not a subscriber to the Oracle Linux Service Offering(s) and/or Oracle VM Service Offering(s); (f) any information, design, specification, instruction, software, data, or material not furnished by Oracle (g) the combination of any Covered Programs with any products or services not provided by Oracle; (h) your claim, lawsuit, or action against a third party. For avoidance of doubt, this section specifically excludes, and no indemnification is provided for, the Verrazzano programs.

This section provides your exclusive remedy for any infringement claims or damages, liabilities, costs or expenses.

D. Fees and Taxes

Once placed, Your order shall be non-cancelable and the sums paid nonrefundable, except as provided in the Contract or Your Order.

For the first term for which Service Offering(s) are ordered, the initial fees due will be calculated based upon the number of systems to be supported that are in existence as of the date of your order. For the second and all subsequent terms, the fees due will be calculated based on the total number of systems supported that are in existence as of the first day of the term(s).

In addition to the initial fees specified above, additional fees are required for the level Service Offering(s) ordered based on the maximum number of supported systems that exist simultaneously at any time during the term and in accordance with the Oracle Open Source Support Policies for the level of support you are ordering. In that regard, in the event that you decide to increase the number of supported systems, you agree that you will promptly place an order for Service Offering(s) for these systems and pay the additional relevant fees prior to increasing the number of supported systems.

For services sold in conjunction with the Service Offering(s), the fees due for the initial term and all subsequent terms will be based on the then current GSA Schedule Pricelist included in Your contract with the Contractor.

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.

Invoices for services shall be submitted by Contractor on a quarterly basis (unless otherwise specified in the order) after the completion of the services period covered by the invoice. All service fees are invoiced after the performance of the services. Fees for all services must be paid in arrears (31.U.S.C. 3324).

E. Accessibility

The extent to which an Oracle product is, prior to any customizations, capable of providing comparable access to individuals with disabilities consistent with the applicable provisions of the Architectural and Transportation Barriers Compliance Board standards set out in 36 CFR Part 1194 (known as 'Section 508') effective as of June, 2001, or the Revised version in Appendix A (known as 'Revised Section 508') effective as of January, 2018 and the Web Content Accessibility Guidelines (WCAG) version 2.0 level AA, or the Web Content Accessibility Guidelines (WCAG) version 2.1 level AA, is indicated by the dependencies, comments and exceptions (some of which may be significant, if any) noted on the applicable Accessibility Conformance Report (ACR) based on the Voluntary Product Accessibility Templates (VPAT) available at www.oracle.com/accessibility for each product, when they are used in accordance with Oracle's associated documents and other written information, and provided that any assistive technologies and any other products used with them properly interoperate with them. In the event that no ACR is available for a particular Oracle product, please contact the Oracle Accessibility Program Office at accessible_ww@oracle.com. In some cases, the outcome may be that a product is still being evaluated for accessibility, may be scheduled to meet accessibility standards in a future release, or may not be scheduled to meet accessibility standards at all. Oracle Support customers with disabilities may use the online My Oracle Support or call Oracle Support at 1.800.223.1711. Hearing-impaired customers in the U.S. who wish to speak to an Oracle Support representative may use a telecommunications relay service (TRS). Information about the TRS is available at <https://www.fcc.gov/file/15195/download> (PDF), and a list of telephone numbers is available at <http://www.fcc.gov/cgb/dro/trsphonebk.html>. International hearing-impaired customers should use the TRS at +1.605.224.1837. Oracle Support will respond to product accessibility issues according to the current Technical Support Policies. No other terms, conditions, statements or any other such representations regarding or related to accessibility shall apply to the Oracle products provided. Oracle cannot make any commitments about future product directions, including plans to address accessibility or the availability of ACRs. Product direction remains at the sole discretion of Oracle. You agree that the representations provided and referenced in this paragraph satisfy Your

requirements relating to Section 508 and Accessibility, and that no other Section 508- or Accessibility-related requirements, terms, conditions, statements or representations regarding or relating to accessibility, including any which may be contained in any non-Oracle order or ordering documentation, shall apply to the products and/or services provided.

F. Internet Protocol Version 6 (IPv6)

Prior to any customizations, the service(s) to be delivered pursuant to the Contract are capable of accommodating Internet Protocol version 6 (IPv6) solely to the extent defined and noted in the relevant product/service documentation available at oracle.com. Please note that such capabilities are subject to the dependencies, comments and exceptions (some of which may be significant, if any) noted in such documentation, and require that Oracle product(s) and service(s) are used in accordance with Oracle's associated documents and other written information and that any other products properly interoperate with them. If no relevant product/service documentation is found addressing IPv6, then Oracle makes no representations as to the capabilities of the product/service in question to accommodate IPv6. Oracle cannot make any commitments about future product directions, including plans to address IPv6. Product direction remains at the sole discretion of Oracle. You agree that the representations provided and referenced in this paragraph satisfy Your requirements relating to IPv6, and that no other IPv6-related requirements, terms, conditions, statements, requirements, including any which may be contained in any non-Oracle order or ordering documentation, shall apply to the Oracle products and/or services to be delivered pursuant to these STCs.

G. NONDISCLOSURE

By virtue of your order, Oracle and you may have access to information that is confidential to one another ("Confidential Information"). We each agree to disclose only information that is required for the performance of obligations under your order and these STCs. Confidential Information shall be limited to the terms and pricing under these STCs and all information clearly identified as confidential at the time of disclosure.

A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.

Subject to the Freedom of Information Act ("FOIA") (5 U.S.C. §552), we each agree not to disclose each other's Confidential Information to any third party other than those set forth in the following sentence for a period of three years from the date of the disclosing party's disclosure of the Confidential Information to the receiving party. We may disclose Confidential Information only to those employees or agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than under these STCs. Nothing shall prevent either party from disclosing the terms or pricing under these STCs or orders submitted under these STCs in any legal proceeding arising from or in connection with these STCs or disclosing the Confidential Information to a governmental entity as required by law. In the event You receive a valid request for Oracle's Confidential Information pursuant to FOIA, You will provide Oracle with reasonable notice of such request and give Oracle an opportunity to object to or limit any such disclosure.

The parties acknowledge and agree that You and these STCs are subject to FOIA. Should You receive a request under such law for Oracle's Confidential Information, You agree to give Oracle adequate prior notice of the request and before releasing Oracle's Confidential Information to a third party, in order to allow Oracle sufficient time to seek injunctive relief or other relief against such disclosure.

To the extent You provide personal information to Oracle as part of any Service Offering(s) You have ordered, Oracle will comply with:

- a. the relevant Oracle privacy policies applicable to the Service Offering(s), available at <http://www.oracle.com/us/legal/privacy/overview/index.html>;
- b. the applicable administrative, physical, technical and other safeguards, and other applicable aspects of system and content management, available at <http://www.oracle.com/us/corporate/contracts/>; and
- c. the applicable version of the Data Processing Agreement for Oracle Services (the "Data Processing Agreement"). The version of the Data Processing Agreement applicable to Your order is available at <https://www.oracle.com/corporate/contracts/cloud-services/contracts.html#data-processing> and is incorporated herein by reference. Your order for Service Offering(s) may also contain additional or more specific privacy terms.

H. Term and Termination

Service Offerings shall be provided for the period of performance defined in Your order, unless earlier suspended or terminated in accordance with the terms of Your order, including these STCs. These STCs will continue to govern any order for the duration of such order. Provisions in these STCs that survive termination or expiration of the Contract are those relating to limitation of liability, indemnification, payment and others which by their nature are intended to survive

I. Warranties, Disclaimers and Exclusive Remedies

For the sake of clarity, this is the Oracle warranty; nevertheless, it shall be accessed by you through the Contractor.

Oracle warrants that the Service Offering(s) will be provided in a professional manner consistent with industry standards. You must notify Oracle of any Service Offering(s) warranty deficiencies within 90 days from performance of the defective services.

TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY IS EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ORACLE DOES NOT GUARANTEE THAT THE COVERED PROGRAMS ASSOCIATED WITH THE SERVICE OFFERING(S) (INCLUDING BUT NOT LIMITED TO THE ORACLE LINUX, ORACLE VM, OR ORACLE VERRAZZANO PROGRAMS) WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT ORACLE WILL CORRECT ALL PROGRAM ERRORS.

FOR ANY BREACH OF THE ABOVE WARRANTY, YOUR EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE THE REPERFORMANCE OF THE DEFICIENT SERVICE OFFERING(S) PROVIDED BY ORACLE; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE RELEVANT SERVICE OFFERING(S) AND RECOVER THE FEES PAID TO ORACLE FOR THE DEFICIENT SERVICE OFFERING(S)

J. LIMITATION OF LIABILITY

NEITHER YOU NOR ORACLE NOR ITS AFFILIATES SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE. ORACLE'S AND ITS AFFILIATES' MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THESE STCS OR YOUR ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES PAID TO ORACLE UNDER THE ORDER, AND IF SUCH DAMAGES RESULT FROM YOUR USE OF SERVICE OFFERING(S), SUCH LIABILITY SHALL BE LIMITED TO THE FEES PAID TO ORACLE UNDER SUCH ORDER FOR THE DEFICIENT TECHNICAL SUPPORT SERVICES GIVING RISE TO THE LIABILITY.

THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT ORACLE'S INDEMNIFICATION OBLIGATION OR YOUR EXCLUSIVE REMEDY FOR ANY INFRINGEMENT CLAIMS OR DAMAGES, LIABILITIES, COSTS OR EXPENSES UNDER SECTION C (ORACLE LINUX AND ORACLE VM INDEMNIFICATION) ABOVE.

The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Licensor's negligence (2) fraud; or (3) for any other matter for which liability cannot be excluded by law.

K. Export

Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Service Offering(s). You agree that such export laws govern your use of any Service Offering(s) 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 Service Offering(s) (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.

L. Other

1. Oracle is an independent contractor and you agree that no partnership, joint venture, or agency relationship exists between you and Oracle or between Contractor and Oracle. Each party will be responsible for paying its own employees, including employment related taxes and insurance. If while performing services Oracle requires access to other vendors' products that are part of your system, you will be responsible for acquiring all such products and the appropriate license rights necessary for Oracle to access such products on your behalf.
2. You may not assign orders or give or transfer the Service Offering(s) or an interest in them to another individual or entity. If you grant a security interest in the Service Offering(s), the secured party has no right to use or transfer those Service Offering(s) and if You decide to finance Your acquisition of any Service Offering(s), 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 separately licensed third party technology licensed under open source or similar license terms. Contractor and Oracle acknowledge that assignment of Government contracts are subject to limitations imposed by federal law, including, but not limited to, the Anti-Assignment Act, 41 USC 6305.
3. Unless otherwise agreed in an order, upon 45 days written notice, and no more than once annually, Oracle may audit your use of the services. You agree to cooperate with Oracle's audit, and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with your normal business operations. Oracle 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 Oracle 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 either A) paying any underpaid fees related to use of the services and Oracle or the Contractor, as the case may be, shall submit a contract modification to document the amount of such fees, or B) for discontinuing noncompliant use. Oracle shall not be responsible for any costs incurred by you in cooperating with the audit. The performance of the audit and non-public data obtained during the audit (including findings or reports that result from the audit) shall be subject to the Nondisclosure provision of these STCs.
4. The purchase of Service Offering(s) or other service offerings, programs or products are all separate offers and separate from any other order. You understand that You may purchase Service Offering(s) or other service offerings, programs or products independently of any other order. Your

obligation to pay under any order is not contingent on performance of any other service offerings or delivery of programs or products by Oracle.

5. Except for actions for breach of Oracle's proprietary rights, any disputes arising out of or relating to these STCs shall be handled in accordance with the Contract Disputes Act, 41 U.S.C. §§7101-7109.
6. If any document incorporated by reference into these OSSS GSA STCs contains a provision (a) allowing for the automatic termination of your services; (b) allowing for the automatic renewal of services and/or fees; (c) requiring the governing law to be anything other than Federal law, and/or (d) conflicts with terms as provided in General Services Acquisition Regulation (GSAR) 552.212-4(w) then, such terms shall not apply, except that GSAR 552.212-4(w)1(iv) shall not impair any rights or remedies Oracle may have with respect to nonpayment of fees, Your unauthorized use of software or services, or Your violation of any of Oracle's proprietary rights, including intellectual property rights. If any document incorporated by reference into these OSS GSA STCs contains an indemnification provision, such provision shall not apply as to the United States indemnifying Oracle or any other party; however, Oracle reserves the right to seek indemnification from the U.S. Government in accordance with such provision(s) should Federal statute permit such indemnification

M. Force Majeure

In accordance with FAR 552.212-4(f), Oracle shall not be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; pandemic, electrical, internet, or telecommunication outage that is not caused by Oracle; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of Oracle. Oracle will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, you will terminate for convenience the contract unless the parties agree otherwise in writing. This section does not excuse Oracle's obligation to take reasonable steps to follow its normal disaster recovery procedures or your obligation to pay for Service Offering(s) ordered or delivered.

N. Entire Agreement

You agree that these STCs and the information which is incorporated into these STCs by written reference (including reference to information contained in a URL or referenced policy), together with the underlying GSA Schedule Contract, Schedule Pricelist, the applicable order, are the complete agreement for the Service Offering(s) ordered by You and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such Service Offering(s) .

It is expressly agreed that 1) the terms of these STCs and 2) any Oracle terms distributed to you by Contractor and expressly included in your order, shall supersede the terms in any purchase order, procurement internet portal or any other similar non-Oracle document and no terms included in any such purchase order, portal or other non-Oracle document shall apply to the Service Offering(s) ordered. In the event of any inconsistencies between the terms of an order and these STCs, these STCs shall take precedence. These STCs and orders may not be modified and the rights and restrictions may not be altered or waived except in a writing signed by authorized representatives of You and the Contractor. Any notice required under these STCs shall be provided to the other party in writing.