



**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
And
RFD & ASSOCIATES, INC. ("Contractor")
For
UNLIMITED ORACLE SOFTWARE LICENSING, SOFTWARE MAINTENANCE, HARDWARE
SUPPORT, AND PROFESSIONAL SERVICES
MA 5600 NC180000038**

The City accepts the Contractor's Offer (as referenced in Section 1.1.4 below) for the above requirement and enters into the following Contract.

This Contract is between RFD & Associates, Inc. having offices at 401 Camp Craft Road, Austin, Texas 78746 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the August 31, 2018 ("Effective Date").

1.1 This Contract ("Agreement") is composed of the following documents in order of precedence:

- 1.1.1 The City of Austin Purchasing Office 0400 Supplemental Purchase Provisions, incorporated herein and attached as Exhibit A hereto.
- 1.1.2 State of Texas Department of Information Resources Contract DIR-TSO-4158 and Appendices A, B, C, D, G, and H thereto, incorporated herein by reference.
- 1.1.3 This Contract cover sheet.
- 1.1.4 RFD & Associates, Inc.'s Offer, incorporated herein and attached as Exhibit B hereto.
- 1.1.5 Non-Discrimination Certification, incorporated herein and attached as Exhibit C hereto.
- 1.1.6 Non-Suspension or Debarment Certification, incorporated herein and attached as Exhibit D hereto.

1.2 Term of Contract. The term is as provided for in the City of Austin Purchasing Office 0400 Supplemental Purchase Provisions, Exhibit A.

1.3 Compensation. This Contract is for an amount not to exceed \$ \$10,979,652.77.

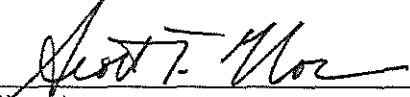
This Contract (including any Exhibits and referenced Documents) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

RFD & ASSOCIATES, INC.

SCOTT T. GLOVER

Printed Name of Authorized Person



Signature

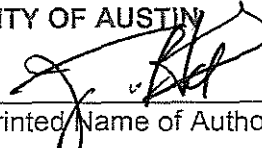
COO

Title:

8/22/2018

Date:

CITY OF AUSTIN



Printed Name of Authorized Person

JAMES T. HOWARD

Signature

IT PROCUREMENT MANAGER

Title:

8/23/18

Date:

Exhibit A
The City of Austin Purchasing Office 0400 Supplemental Purchase Provisions

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Anna Presley Burnham, Phone: 512-628-2646, Email: aburnham@rfdinc.com. The City's Contract Manager for the engagement shall be Kamran Karimi, Phone: (512) 974-2877, Email: Kamran.Karimi@austintexas.gov.

2. **Term of Contract.**

2.1. The Contract shall commence on August 31, 2018, unless otherwise specified, and shall remain in effect for a term of thirty-six (36) months.

2.2. Upon expiration of the term, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract. Any hold over period will not exceed 120 calendar days unless mutually agreed on by both parties in writing.

3. **Invoices.**

3.1. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

3.2. Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the Master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

3.3. Intentionally Omitted.

3.4. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.5. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.6. Invoices shall be mailed to the below address:

	City of Austin
Department	Communication Technology Management or (CTM)
Attn:	Accounts Payable
Address:	PO Box 1088
City, State, Zip Code	Austin, TX 78767

4. **Payment.**

4.1. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the Deliverables or of the invoice, whichever is later.

4.2. If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

4.3. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or

delivery, as stated above, provided that the invoice matches the shipment or delivery.

- 4.4. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

- 4.4.1. delivery of defective or non-conforming Deliverables by the Contractor;
- 4.4.2. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- 4.4.3. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
- 4.4.4. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
- 4.4.5. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- 4.4.6. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
- 4.4.7. failure of the Contractor to comply with any material provision of the Contract Documents.

- 4.5. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of § 2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

- 4.6. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.

- 4.7. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

5. **Travel Expenses.**

All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

6. **Equal Opportunity.**

- 6.1. **Equal Employment Opportunity:** No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit F. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

- 6.2. **Americans With Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent shall engage in any

discriminatory employment practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

7. Audits and Records.

7.1. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.2. Records Retention:

7.2.1. Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.

7.2.2. All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City.

7.2.3. The Contractor shall retain all Records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.

7.3. The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.

8. Insurance: The following insurance requirement applies.

8.1. General Requirements.

8.1.1. The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

8.1.2. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

8.1.3. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

8.1.4. The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

8.1.5. The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

8.1.6. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

8.1.7. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be emailed to the City upon request and updates shall be mailed to the following address:

City of Austin
Purchasing Office
P. O. Box 1088

Austin, Texas 78767

OR

PURInsuranceCompliance@austintexas.gov

- 8.1.8. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- 8.1.9. If insurance policies are not written for amounts specified in Paragraph 8.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- 8.1.10. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- 8.1.11. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- 8.1.12. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- 8.1.13. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.
- 8.1.14. The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- 8.2. **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.
 - 8.2.1. **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$1,000,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.
 - 8.2.1.1. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
 - 8.2.1.2. Contractor/Subcontracted Work.
 - 8.2.1.3. Products/Completed Operations Liability for the duration of the warranty period.
 - 8.2.1.4. Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.
 - 8.2.1.5. Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.
 - 8.2.1.6. The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

8.2.2. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements:

8.2.2.1. Waiver of Subrogation, Endorsement CA0444, or equivalent coverage.

8.2.2.2. Thirty (30) calendar days Notice of Cancellation, Endorsement CA 0244, or equivalent coverage.

8.2.2.3. The City of Austin listed as an additional insured, Endorsement C A T E 99018, or equivalent coverage.

8.2.3. Professional Liability Insurance. The Contractor shall provide coverage, at a minimum limit of \$5,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission, or breach of security (including but not limited to any confidential or private information) arising out of the performance of professional services under this Contract. The required coverage shall extend to technology licensed and/or purchased, including any Software licensed or Hardware purchased under this Contract.

If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the Contract.

8.2.4. Cyberliability Insurance. The Contractor shall provide Cyber Liability Insurance coverage of not less than \$5,000,000 each claim and annual aggregate when combined and shared with the Professional Liability/Technology Errors and Omissions Insurance specified above providing coverage for damages and claims expenses, including notification expenses, arising from (1) breach of network security, (2) alteration, corruption, destruction or deletion of information stored or processed on a computer system, (3) invasion of privacy, including identity theft and unauthorized transmission or publication of personal information, (4) unauthorized access and use of computer systems, including hackers (5) the transmission of malicious code, (6) website content, including claims of libel, slander, trade libel, defamation, infringement of copyright, trademark and trade dress and invasion of privacy and (7) Contractor acts, errors and omissions in delivering or failing to deliver its professional services.

8.2.5. Worker's Compensation and Employers' Liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$1,000,000 bodily injury each accident, \$1,000,000 bodily injury by disease policy limit and \$1,000,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

8.2.5.1. The Contractor's policy shall apply to the State of Texas.

8.2.5.2. Waiver of Subrogation, Form WC 420304, or equivalent coverage.

8.2.5.3. Thirty (30) calendar days Notice of Cancellation, Form WC 420601, or equivalent coverage.

8.2.6. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

9. Indemnity.

9.1. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

(1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents,

- and employees of such subcontractors; and third parties); and/or
- (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming Deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

9.2. THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

10. Confidentiality.

- 10.1. In order to provide the Deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Confidential Information may be in any medium and may be written or oral. Confidential Information of a Party shall also specifically include all Personal Identifying Information ("PII") (as defined below) of City's customers (regardless of being marked confidential) that is obtained, received, transmitted, processed, stored, archived or otherwise maintained by Contractor under the Master Agreement (such Confidential Information regardless of whether in tangible or intangible form is referred to herein as "PII Data").
- 10.2. "Personal identifying information" or "PII Data" means information that alone or in conjunction with other information identifies an individual, "Sensitive personal information" means an individual's first name or first initial and last name in combination with other information. This information includes name, postal address, phone number, e-mail address, social security number, driver's license number, account number and consumption. For purposes of data security and handling, Sensitive personal information will be treated in the same manner as PII Data.
- 10.3. Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors.
- 10.4. Contractor agrees: (i) not to use Confidential Information for any reason other than for the purpose of providing or receiving the Deliverables, (ii) not to disclose Confidential Information to any third party other than to its employees who have a need to know the Confidential Information for furtherance of the providing the Deliverables, (iii) to promptly notify City of any request for Confidential Information to be disclosed under any law or order of any court or other governmental authority with proper jurisdiction, so as to permit City reasonable time to seek an appropriate protective order, and (iv) to use measures to protect the Confidential Information that are no less stringent than Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
- 10.5. All Confidential Information and derivations thereof shall remain the sole and exclusive property of City, and no license or other right to the Confidential Information or intellectual property is granted or implied hereby. Upon the written request of City, Contractor shall promptly return to City all tangible items of Confidential Information furnished by City and all copies thereof or certify in writing that all Confidential Information, including all copies, has been destroyed.
- 10.6. No expiration or termination of this contract shall affect either party's rights or obligations with respect to Confidential Information. Notwithstanding the foregoing, nothing in this Agreement requires a party to treat as confidential any information which: (i) at the time of disclosure by or on behalf of the Disclosing Party hereunder, is in the public domain, or thereafter enters the public domain without any breach of this Agreement by the Recipient or any of its Representatives, (ii) is rightfully in the possession or knowledge of Recipient or its representatives prior to its disclosure by or on behalf of the Disclosing Party hereunder, (iii) is rightfully acquired by Recipient or its representative(s) from a third party who is not under any obligation of confidence with respect to such Confidential

Information, or (iv) is developed by Recipient or its representatives independently of the Confidential Information disclosed hereunder by or on behalf of the Disclosing Party (as evidenced by written documentation).

10.7. The parties acknowledge and agree that any breach or threatened breach of this Contract could cause harm for which money damages may not provide an adequate remedy. The parties agree that in the event of such a breach or threatened breach of this Contract, in addition to any other available remedies, City may seek temporary and permanent injunctive relief restraining the Contractor from disclosing or using, in whole or in part, any Confidential Information.

11. Advertising. The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

12. Assignment-Delegation. The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

13. Subcontractors.

13.1. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

13.2. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

- i. require that all Deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
- iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
- iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear;
- v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

13.3. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

13.4. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

14. **Interested Parties Disclosure.** As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the bidders and local officials remains in place. Link to Texas Ethics Commission Form 1295 process and procedures below:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

15. **SSAE 16 Audit.** Contractor shall provide to City on an annual basis, a copy of Oracle's most recent SSAE 16 SOC 1 Report Type II for the datacenter(s) that host City information.

16. **Limitation of Liability.**

- 16.1. CONTRACTOR SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL PUNITIVE, OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE.
- 16.2. EXCEPT WITH RESPECT TO CONTRACTOR'S OBLIGATIONS AND LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO INFRINGEMENT OR TO BODILY INJURY OR TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY THE NEGLIGENT ACTIONS OR INTENTIONALLY WRONGFUL ACTS OF CONTRACTOR, CONTRACTOR'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CITY'S ORDERS, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL BE LIMITED TO FOUR (4) TIMES THE TOTAL CONTRACT PRICE.
- 16.3. CITY SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE UNDER THIS AGREEMENT. FURTHER EXCEPT FOR CITY'S INTENTIONALLY WRONGFUL ACTS, BREACH OF ANY PAYMENT OBLIGATION OR VIOLATION OF ORACLE'S PATENT RIGHTS OR COPYRIGHTS, CITY'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR CITY'S ORDERS, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL BE LIMITED TO THE AGGREGATE OF FOUR (4) TIMES THE TOTAL CONTRACT PRICE.



Ordering Document

Reference: Quote # L-COA-072318
Expires August 31, 2018
Vendor HUB Certification #: 69004

Vendor:	Customer:
RFD & Associates, Inc. 401 Camp Craft Road Austin, Texas 78746 Contact: Anna Presley Burnham aburnham@rfdinc.com 512-762-1360 phone	City of Austin Communications and Technology Management 1124 S. Interstate 35, Suite 300 Austin, Texas 78704 Contact: Stephen Elkins stephen.elkins@austintexas.gov 512-802-6679 office

Contract and Terms

1. This Ordering Document ("Order") between City of Austin ("COA" and "Customer") and RFD & Associates, Inc. ("RFD" and "Reseller") is subject to the Texas Department of Information Resources ("DIR"), contract # DIR-TSO-4158 and Appendices A, B, C, D, G, and H, the Contract between the City of Austin and RFD & Associates, Inc., City of Austin's Supplemental Terms, RFD & Associates, Inc. Ordering Document, Oracle End User Ordering Document, and the Oracle Payment Schedule.
2. This document shall be deemed an "Order" for purposes outlined within these documents.
3. Notwithstanding anything to the contrary in the End User Ordering Document ("EUOD"), attached as Attachment 1, during the Unlimited Deployment Period City of Austin may not assign the licenses of the Unlimited Deployment Programs acquired under this ordering document, or give or transfer an interest in them to another individual or entity.
4. Notwithstanding anything to the contrary in End User Ordering Document ("EUOD"), attached as Attachment 1, at the end of the Unlimited period, City of Austin will certify actual usage, and the license count will be fixed on that number as detailed in the End User Ordering Document, attached as Exhibit A. City of Austin will be allowed 30 days past the end of the unlimited period to submit the certification.
5. The following items are required to place this order with Oracle:
 - a. Ordering document signed by COA and RFD (this document),
 - b. End User Order Document "EUOD" (Attachment 1) signed by COA and RFD; and
 - c. A purchase order in the amount of \$5,446,686.59 for year 1 (8/31/18 – 8/30/19).



Unlimited Deployment Programs

Quantity	Description	Type	Metric
Unlimited	Oracle Database Enterprise Edition	Perpetual	Processor
Unlimited	Oracle Real Application Clusters	Perpetual	Processor
Unlimited	Oracle Partitioning	Perpetual	Processor
Unlimited	Oracle GoldenGate	Perpetual	Processor
Unlimited	Oracle Advanced Compression	Perpetual	Processor
Unlimited	Oracle Advanced Security	Perpetual	Processor
Unlimited	Oracle Diagnostics Pack	Perpetual	Processor
Unlimited	Oracle Tuning Pack	Perpetual	Processor
Unlimited	Oracle Database Lifecycle Management Pack	Perpetual	Processor
Unlimited	Oracle WebLogic Suite	Perpetual	Processor
Unlimited	Oracle Data Masking and Subsetting Pack	Perpetual	Processor
Unlimited	Oracle WebLogic Server Management Pack Enterprise Edition	Perpetual	Processor
Unlimited	Oracle Multitenant	Perpetual	Processor
Unlimited	Oracle Database Vault	Perpetual	Processor
Unlimited	Oracle GoldenGate Foundation Suite	Perpetual	Processor
ULA Net License Fee:			\$2,599,297.00
Years 1-3 Total ULA Support:			\$7,907,585.77
2018 ULA Support Fee (3 years):			\$1,544,453.02
Existing ULA Support Fee (3 years):			\$6,363,132.75
Years 1-3 Legacy Non-ULA Existing Product Support:			\$472,770.00
Consulting Credit:			500 hours
Based on a \$200 hour bill rate and includes up to 5 Oracle Open World Passes			
Total Fees Years 1-3 (August 30, 2018 – August 29, 2021):			\$10,979,652.77
Includes ULA License + ULA Support + Existing Non-ULA Support + Consulting Credit			



Payment Schedule – Software License & Technical Support

Payment Description	New ULA License & Support	Existing ULA Support	Legacy Non-Migrated Support	Total	Due Date
YEAR ONE (8/30/18 - 8/29/19)					
Net License	2,599,297.00			2,599,297.00	9./29/18
Annual Cost	571,845.34	2,121,044.25	154,500.00	2,847,389.59	
Yr 1 quarterly - 1st	142,961.34	530,261.06	38,625.00	711,847.40	11/29/18
Yr 1 quarterly - 2nd	142,961.34	530,261.06	38,625.00	711,847.40	2/28/19
Yr 1 quarterly - 3rd	142,961.34	530,261.06	38,625.00	711,847.40	5/30/19
Yr 1 quarterly - 4th	142,961.34	530,261.06	38,625.00	711,847.40	8/30/19
TOTAL YEAR ONE	3,171,142.34	2,121,044.25	154,500.00	5,446,686.59	
YEAR TWO (8/30/19 - 8/29/20)					
Annual Cost	486,303.84	2,121,044.25	159,135.00	2,766,483.09	
Yr 2 quarterly - 1st	121,575.96	530,261.06	39,783.75	691,620.77	10/29/19
Yr 2 quarterly - 2nd	121,575.96	530,261.06	39,783.75	691,620.77	2/27/20
Yr 2 quarterly - 3rd	121,575.96	530,261.06	39,783.75	691,620.77	5/29/20
Yr 2 quarterly - 4th	121,575.96	530,261.06	39,783.75	691,620.77	7/29/20
TOTAL YEAR TWO	486,303.84	2,121,044.25	159,135.00	2,766,483.09	
YEAR THREE (8/30/20 - 8/29/21)					
Annual Cost	486,303.84	2,121,044.25	159,135.00	2,766,483.09	
Yr 3 quarterly - 1st	121,575.96	530,261.06	39,783.75	691,620.77	10/29/20
Yr 3 quarterly - 2nd	121,575.96	530,261.06	39,783.75	691,620.77	2/27/21
Yr 3 quarterly - 3rd	121,575.96	530,261.06	39,783.75	691,620.77	5/29/21
Yr 3 quarterly - 4th	121,575.96	530,261.06	39,783.75	691,620.77	7/29/21
TOTAL YEAR THREE	486,303.84	530,261.06	159,135.00	2,766,483.09	

Total 3 Year Cost: \$10,979,652.77



The Effective Date of this ordering document is August 31, 2018.

This quote is valid through August 31, 2018, and shall become binding on the Effective Date upon execution by City of Austin and acceptance by RFD & Associates, Inc.

City of Austin

RFD & Associates, Inc.

Signature _____

Signature Scott T. Glover

Name: _____

Name: Scott Glover

Title: _____

Title: Chief Operating Officer

Date _____

Date 8/22/2018



Software Design & Development Systems Integration Application Performance Monitoring Business Process Management

The Effective Date of this ordering document is August 31, 2018.

This quote is valid through August 31, 2018, and shall become binding on the Effective Date upon execution by City of Austin and acceptance by RFD & Associates, Inc.

City of Austin

RFD & Associates, Inc.

Signature

Signature

Name:

JAMES T. HOWARD

Name: Scott Glover

Title:

Procurement MGR

Title: Chief Operating Officer

Date:

8/24/18

Date:

8/22/2018

ATTACHMENT 1

END USER ORDERING DOCUMENT

Your Name	City of Austin	Your Contact	Stephen Elkins
Your Location	1124 S Interstate 35, Suite 300 Austin, TX 78704	Phone Number	512-802-6679
		Email Address	stephen.elkins@austintexas.gov

CONTRACT INFORMATION

End User Agreement: Contract for Products and Related Services between the State of Texas acting by and through the Department of Information Resources ("DIR") and Oracle America, Inc. ("Oracle") (DIR Contract No. DIR-TSO-4158; Oracle Contract No. US-GMA-1889764) and Appendices A, B, C, D, G and H thereto.

This ordering document (this "EUOD") incorporates by reference the terms of the end user agreement specified above (the "EUA"). The defined terms in the agreement shall have the same meaning in this EUOD unless otherwise specified herein.

All licenses acquired under the End User Ordering Document with the footer reference number 5498956, dated August 31, 2015, as amended by Amendment One to the End User Ordering Document dated August 31, 2015 (collectively, the "ULA 5498956") between you and RFD & Associates, Inc. ("RFD" or "partner") are hereby (a) converted and replaced as set forth in section D.1, (b) restated as set forth in section D.2, or (c) removed as set forth in section D.3 below.

A. PROGRAMS AND SERVICES

City of Austin has ordered the program licenses and technical support services described in section B.7.a below. Listed below is a summary of net fees due under this EUOD. These fees are exclusive of any applicable shipping charges or applicable taxes. All fees on this EUOD are in US Dollars.

The programs designated below with an asterisk ("*") are for use on an unlimited number of Processors during the Unlimited Deployment Period (as defined in section C.1.a below), subject to the fixing requirements and all other terms and conditions of this EUOD (each such program being referred to as an "Unlimited Deployment Program" and collectively as the "Unlimited Deployment Programs").

The programs designated below with two asterisks ("**") are restated from ULA 5498956 as set forth in section D.2 below and licensed for the quantity of Processors indicated in the table below for each such program, and may be used by you subject to the terms and conditions of this EUOD and the EUA (such program being referred to herein as the "Quantity Based Programs"). The Quantity Based Programs are not part of the Unlimited Deployment Programs or the Unlimited Deployment Right (defined below in section C.1).

Product Description / License Type	Quantity
*Oracle Database Enterprise Edition - Processor Perpetual	Unlimited
*Oracle Real Application Clusters - Processor Perpetual	Unlimited
*Oracle Partitioning - Processor Perpetual	Unlimited
*Oracle GoldenGate - Processor Perpetual	Unlimited
*Oracle Advanced Compression - Processor Perpetual	Unlimited
*Oracle Advanced Security - Processor Perpetual	Unlimited
*Oracle Diagnostics Pack - Processor Perpetual	Unlimited
*Oracle Tuning Pack - Processor Perpetual	Unlimited
*Oracle Database Lifecycle Management Pack - Processor Perpetual	Unlimited
*Oracle WebLogic Suite - Processor Perpetual	Unlimited
*Oracle Data Masking and Subsetting Pack - Processor Perpetual	Unlimited
*Oracle WebLogic Server Management Pack Enterprise Edition - Processor Perpetual	Unlimited
*Oracle Multitenant - Processor Perpetual	Unlimited
*Oracle Database Vault - Processor Perpetual	Unlimited
*Oracle GoldenGate Foundation Suite - Processor Perpetual	Unlimited
** Oracle Spatial and Graph - Processor Perpetual	26
** Oracle OLAP - Processor Perpetual	4

Fee Description	Net Fees
Net License Fees	2,599,297.00
Net Technical Support Fees for New Licenses	571,845.34
Net Technical Support Fees for Converted and Replaced Licenses	2,121,044.25
Total Fees	5,292,186.59

B. GENERAL TERMS

1. End User Definition

Notwithstanding anything to the contrary in the EUA, for purposes of this EUOD only, "you" and "your" shall mean the City of Austin, and you will be the only entity allowed to use the Unlimited Deployment Programs licensed under this EUOD.

2. Commencement Date

All program licenses acquired under this EUOD are effective upon shipment of tangible media or upon the effective date of this EUOD if shipment of tangible media is not required (such effective date being referred to as the "EUOD commencement date"). The period of performance for all services is as set forth in section B.7.a below.

3. Territory

The program licenses included on this EUOD are for use in the U.S.

4. Fees, Invoicing, and Payment Obligation

- a. License fees are invoiced as of the commencement date. Service fees are invoiced in arrears of the service performance; specifically, technical support fees are invoiced quarterly in arrears. The total annual technical support fees due under this EUOD and specified in section A above include the existing annual technical support fees for the Converted and Replaced Licenses (as defined in section D.1 below) as well as the incremental technical support fees due for the program licenses specified in section A, including the licenses of the Unlimited Deployment Programs.
- b. In addition to the fees listed in section A, RFD & Associates, Inc. (RFD) will invoice you for any applicable shipping charges or applicable taxes.
- c. In entering into payment obligations under this EUOD, you agree and acknowledge that you have not relied on the future availability of any program or updates. However, (i) if you order technical support for programs licensed under this EUOD, the preceding sentence does not relieve Oracle of its obligation to provide such technical support under this EUOD if-and-when available, in accordance with Oracle's then current technical support policies, and (ii) the preceding sentence does not change the rights granted to you for any program licensed under this EUOD, per the terms of this EUOD and the EUA. The program licenses provided in this EUOD are offered separately from any other proposal for consulting services you may receive or have received from Oracle and do not require you to purchase Oracle consulting services.

5. Delivery and Installation

- a. Oracle has made available the programs listed in section A of this EUOD to you for electronic download at the electronic delivery web site located at the following Internet URL: <http://edelivery.oracle.com>. Through the Internet URL, you can access and electronically download to your location the current production release as of the effective date of this EUOD of the software and related program documentation for each program listed in section A to this EUOD. Provided that you have continuously maintained technical support for the programs licensed under this EUOD, you may continue to download the software and related program documentation for the programs listed in section A to this EUOD. Please be advised that not all programs are available on all hardware/operating system combinations. For current program availability please check the electronic delivery web site specified above.
- b. Notwithstanding the foregoing, you acknowledge and agree that you were previously delivered the programs listed in section A of the EUOD that are also included on the attached Converted and Replaced Licenses Exhibit; and, therefore, with respect to such programs, Oracle has no delivery obligation under this EUOD, electronic download or otherwise.
- c. Oracle shall not be responsible for installation of the software.

6. Total Support Stream

For purposes of this EUOD, the "Total Support Stream" shall mean: (i) the existing technical support for the Converted and Replaced Licenses (as defined in section D.1 of this EUOD); (ii) the technical support for the program licenses specified in section A of EUOD; (iii) technical support for any program licenses purchased under section D.1 (Future Purchases / Price Hold) of the ULA 5498956; and (iv) technical support for ULA 5498956 Removed Programs (as defined in section D.3 of this EUOD).

7. Technical Support

- a. The total technical support fees due under this EUOD, and specified in the table in section 2 above, include (a) the existing technical support fees for the Converted and Replaced Licenses as defined in section D.1 of this EUOD (the "Net Technical Support Fees for Converted and Replaced Licenses") for the support period that commences on the day following the Term End date of technical support for the Support Contract Number specified in the table below through August 30, 2019; and (b) incremental technical support fees for the program licenses specified in section A of the EUOD (the "Net Technical Support Fees for New Licenses") for the support period from August 31, 2018 through August 30, 2019.

- b. You agree and acknowledge that (a) the existing technical support fees for the Converted and Replaced Licenses and the Removed Programs indicated by the invoices in the table below are due and remain due in accordance with the order and/or agreement in which they were acquired as these fees are consideration for the technical support provided through the Term End Date; and (b) execution of this EUOD does not relieve you of the obligation to pay the technical support fees set forth in the invoice table below.

Oracle Support Contract Number	Oracle Invoice Number Reference	Term Start	Term End	Amount Due
14090048	44161733	17-AUG-18	16-NOV-18	4,858.02
6918474	43956144	31-MAY-18	30-AUG-18	532,392.34
14090048	44161735	17-FEB-19	16-MAY-19	4,858.02
14090048	44161732	17-MAY-18	16-AUG-18	4,858.02
10505590	44196699	24-FEB-19	23-MAY-19	10,246.84
14090048	44161736	17-MAY-19	23-MAY-19	344.98
10505590	44196696	24-MAY-18	23-AUG-18	10,246.84
14090048	44161734	17-NOV-18	16-FEB-19	4,858.02
10505590	44196697	24-AUG-18	23-NOV-18	10,246.84
10505590	44196698	24-NOV-18	23-FEB-19	10,246.84

- c. Notwithstanding anything to the contrary in the EUA, Software Update License & Support (or any successor technical support offering to Software Update License & Support, "SULS") acquired under this EUOD for the programs licensed under section A of the EUOD may be renewed annually; and if you renew such technical support, then the technical support fee for the renewal year commencing on August 31, 2019 shall be \$2,607,348.09 if you renew directly with Oracle, or \$2,607,348.09 if you renew through RFD. For the renewal year commencing on August 31, 2020, the annual fees for such technical support will not increase by more than 0% over the prior year's fees. The technical support caps set forth in this section are granted provided that (a) with respect to each technical support renewal year that occurs during the Unlimited Deployment Period, you renew the Total Support Stream, and (b) with respect to each technical support renewal year that occurs after the end of the Unlimited Deployment Period, you renew the total technical support due under this EUOD for the same number of licenses for the same programs as the previous year.
- d. Notwithstanding anything to the contrary in this section, you acknowledge that the Total Support Stream and the technical support fees owed by you for the program licenses acquired under this EUOD may also increase as a result any inclusion of any Omitted Licenses (as defined in section D.1.b of EUOD).

8. Source Code

Oracle may deliver source code as part of the standard delivery for particular programs; all source code delivered by Oracle is subject to the terms of the EUA, EUOD, and program documentation.

9. Segmentation

The purchase of (a) hardware and/or related hardware support, (b) programs and/or related technical support, or (c) other services are all separate offers and separate from any other order for (i) hardware and/or related hardware support, (ii) programs and/or related technical support, or (iii) other services you may receive or have received from Oracle. You understand that you may purchase (x) hardware and/or related hardware support, (y) programs and/or related technical support, or (z) other services independently of any other product or service. Your obligation to pay for (i) hardware and/or related hardware support is not contingent on performance of any other service or delivery of programs, (ii) programs and/or related technical support is not contingent on delivery of hardware or performance of any other service, or (iii) other services is not contingent on delivery of hardware, delivery of programs or performance of any additional/other service.

10. Third Party Beneficiary

Oracle, as the owner of the intellectual property of the program licenses and the technical support services, is a third party beneficiary of this order and the EUA between RFD and you, but does not assume any of RFD's obligations hereunder or thereunder.

11. Order of Precedence

In the event of any inconsistencies between the EUA and this EUOD, the EUA shall take precedence.

C. UNLIMITED DEPLOYMENT

1. Unlimited Deployment Right

- a. **General.** In consideration of the payment to RFD of the license and technical support fees specified in section A, from the effective date of this EUOD until August 30, 2021 (or such earlier period as set forth below in sections C.1.c) (the "Unlimited Deployment Period"), you will receive the right to use the Unlimited Deployment Programs on an unlimited number of

Processors (the "Unlimited Deployment Right"), provided that (i) deployment is limited to hardware that is either owned or leased by you; (ii) your use of such Unlimited Deployment Programs shall be in compliance with the terms of the EUA and this EUOD; and (iii) you continuously maintain the Total Support Stream.

On August 30, 2021 (or earlier as set forth below in section C.1.c), the Unlimited Deployment Period and the Unlimited Deployment Right shall terminate, and within thirty (30) days of August 30, 2021 (or earlier as set forth in section C.1.c) (the "Certification Date"), you and Oracle shall follow the certification process set forth in section C.1.b.

- b. **Certification Process.** On the Certification Date (or Accelerated Certification Date (as defined below), if applicable), you shall furnish Oracle with a certification signed by a C-level executive of your entity verifying the quantity of Processors on which the Unlimited Deployment Programs are installed and running by you as of the date on which the Unlimited Deployment Period ends (such certified quantity, the "Certified Deployment"). Notwithstanding the above, you may not include in the Certified Deployment any Processors of the Unlimited Deployment Programs installed and running in a public cloud. On the date the Unlimited Deployment Period ends your quantity of Processor licenses of the Unlimited Deployment Programs above shall be fixed and limited as set forth in the Certified Deployment.
- c. **Breach of Unlimited Deployment Terms.** Upon the date that you first fail to meet any of the conditions specified in section C.1.a above (the "Non-Compliance Date"), then the Unlimited Deployment Period and the Unlimited Deployment Right shall immediately terminate, the Certification Date shall be accelerated to 15 business days after the Non-Compliance Date (the "Accelerated Certification Date"), and you and Oracle shall follow the certification process set forth in section C.1.b above.

You shall not be entitled to any credit or refund as a result of such termination of the Unlimited Deployment Period. If your non-compliance is due to failure to maintain the Total Support Stream, your program licenses after the Non-Compliance Date and all desupported licenses will be subject to Oracle's technical support pricing and policies in effect on the Non-Compliance Date.

- d. **End of Unlimited Deployment Period.** Following the end of the Unlimited Deployment Period, your use of the programs licensed and certified pursuant to the certification process set forth in section C.1.b will continue to be in accordance with the EUA and this EUOD.

Following the end of the Unlimited Deployment Period, and regardless of the quantity of program licenses in your Certified Deployment, your annual technical support fee for the programs licensed under this EUOD shall be based on but shall in no event be less than the annual technical support fee you paid for such program licenses at the support renewal immediately prior to the end of the Unlimited Deployment Period.

If at any time after the end of the Unlimited Deployment Period your use of the programs licensed and certified pursuant to the certification process set forth in section C.1.b exceeds the Certified Deployment, then you must acquire additional licenses and technical support for such program(s) for such exceeded use in accordance with Oracle's then current prices and policies. If at any time after the end of the Unlimited Deployment Period your use of the programs licensed and certified pursuant to the certification process set forth in section C.1.b decreases such that such use is below the Certified Deployment, you shall not be entitled to a refund or credit of any license and/or technical support fees paid under this EUOD.

- e. **Restriction on Assignment.** Notwithstanding anything to the contrary in the EUA, during the Unlimited Deployment Period you may not assign any of the program licenses acquired under this EUOD (including, without limitation, the Unlimited Deployment Programs), or give or transfer an interest in them to another individual or entity.

D. OTHER

1. Converted and Replaced Licenses

- a. In connection with the rights granted under this EUOD, all licenses of any versions or releases of the Unlimited Deployment Programs that were acquired by you prior to the effective date of this EUOD shall be converted and replaced as of the effective date of this EUOD (the "Converted and Replaced Licenses"). The Converted and Replaced Licenses shall also include (i) the programs restated and licensed as Quantity Based Programs under section A of the EUOD as described in section D.2 below and (ii) the ULA 5498956 Removed Programs. The Converted and Replaced Licenses are specified on the Converted and Replaced Licenses Exhibit attached to this EUOD. You will no longer have any right to use the Converted and Replaced Licenses, nor will you be permitted to reinstate the Converted and Replaced Licenses. You shall not be entitled to a credit or refund of license fees for the Converted and Replaced Licenses.
- b. **Omitted Licenses.** The parties agree that they have worked in good faith to list on the Converted and Replaced Licenses Exhibit attached to this EUOD all licenses of any versions or releases of the Unlimited Deployment Programs that were acquired by you prior to the effective date of this EUOD including, without limitation, all of the program licenses acquired under section A of the ULA 5498956 prior to the effective date of this EUOD. However, the parties acknowledge that some of such licenses may have been inadvertently omitted ("Omitted Licenses") from the Converted and Replaced Licenses Exhibit and that technical support fees associated with the Omitted Licenses were therefore excluded from the Total Support Stream. If at any time

following the effective date of this EUOD either you or Oracle discovers any Omitted Licenses, then the parties agree that: (i) you will continue to pay all technical support fees due in connection with the Omitted Licenses during the Unlimited Deployment Period, and (ii) the parties will amend the EUOD to add the Omitted Licenses to the Converted and Replaced Licenses Exhibit and to include the technical support fees associated with the Omitted Licenses in the Total Support Stream. You shall not be entitled to a refund or credit of any license and/or technical support fees as the result of any adjustment specified herein.

2. RESTATED LICENSES (FROM ULA 5498956)

In connection with the rights granted pursuant to the terms and conditions of this EUOD, the Quantity Based Programs acquired under ULA 5498956 are (a) hereby restated under this EUOD as Quantity Based Programs, and (b) the annual technical support fees associated with the Quantity Based Programs has been added to your technical support obligations as part of the existing technical support attributable to the Converted and Replaced Licenses (as set forth in section D.1 above) and must be maintained as part of the Total Support Stream.

3. ULA 5498956 REMOVED PROGRAM

a. In connection with the rights granted pursuant to the terms and conditions of this EUOD, you acknowledge and agree that, (a) the program listed in the following table (the "ULA 5498956 Removed Program") is not included in the Unlimited Deployment Programs or the Unlimited Deployment Right under this EUOD, (b) the ULA 5498956 Removed Program is deemed terminated and, except to the extent such programs may be licensed as Quantity Based Programs pursuant to section D.3.b below, you shall no longer have any right to use, access or otherwise benefit from the ULA 5498956 Removed Program and must delete all copies of any versions of the ULA 5498956 Removed Program from your systems, and (c) the annual technical support fees associated with the ULA 5498956 Removed Program remain part of your technical support obligations under this EUOD as reflected in the technical support fees specified in section A of the EUOD, and must continue to be maintained as part of the Total Support Stream.

Existing License	License Metric	CSI Number	Quantity
*Oracle Cloud Management Pack for Oracle Database- Processor Perpetual	PROCESSOR	20253530	Quantity TBD

- b. Within 30 days from the effective date of this EUOD, you agree to certify in writing the quantity of licenses of the ULA 5498956 Removed Program pursuant to the certification process set forth in section C.1.b of the ULA 5498956. Following such certification, you and RFD shall amend this EUOD to specify the quantity of the applicable license type for each program that currently specifies "Quantity TBD" in the table above. You agree that as of the date of certification for such licenses, your use of the any such fixed Quantity Based Program shall be limited to the quantity of licenses certified as of such date.
- c. You further acknowledge and agree that you shall not be entitled to any refund, credit or reduction in the technical support fees associated with the programs licensed under this EUOD or the Total Support Stream in connection with the termination of the ULA 5498956 Removed Program, and you will not be allowed to reinstate the ULA 5498956 Removed Program.

This quote is valid through 31-AUG-2018, and shall become binding upon execution by you and acceptance by RFD.

City of Austin

RFD & Associates, Inc.

Signature _____

Signature Scott T. Glover

Name _____

Name SCOTT T. GLOVER

Title _____

Title COO

Signature Date _____

Signature Date 8/22/2018

Effective Date 31-AUG-2018 (to be completed by Oracle)

CONVERTED AND REPLACED LICENSES EXHIBIT

Existing License	Existing Quantity	Existing Metric	CSI Number
Oracle WebLogic Suite	N/A	PROCESSOR	20253530
Oracle Multitenant	N/A	PROCESSOR	20253530
Oracle Real Application Clusters	N/A	PROCESSOR	20253530
Oracle Database Enterprise Edition	N/A	PROCESSOR	20253530
Oracle Tuning Pack	N/A	PROCESSOR	20253530
Oracle Data Masking and Subsetting Pack	N/A	PROCESSOR	20253530
Oracle GoldenGate	N/A	PROCESSOR	20253530
Oracle Database Lifecycle Management Pack	N/A	PROCESSOR	20253530
Oracle Database Vault	39	PROCESSOR	20668940
Oracle Database Vault	18	PROCESSOR	21078760
Oracle WebLogic Server Management Pack Enterprise Edition	N/A	PROCESSOR	20253530
Oracle Advanced Compression	N/A	PROCESSOR	20253530
Oracle Advanced Security	N/A	PROCESSOR	20253530
Oracle Diagnostics Pack	N/A	PROCESSOR	20253530
Oracle Partitioning	N/A	PROCESSOR	20253530

Quantity Based Programs			
Existing License	Existing Quantity	Existing Metric	CSI Number
Oracle Spatial and Graph	26	PROCESSOR	20253530
Oracle OLAP	4	PROCESSOR	20253530

following the effective date of this EUOD either you or Oracle discovers any Omitted Licenses, then the parties agree that: (i) you will continue to pay all technical support fees due in connection with the Omitted Licenses during the Unlimited Deployment Period, and (ii) the parties will amend the EUOD to add the Omitted Licenses to the Converted and Replaced Licenses Exhibit and to include the technical support fees associated with the Omitted Licenses in the Total Support Stream. You shall not be entitled to a refund or credit of any license and/or technical support fees as the result of any adjustment specified herein.

2. RESTATED LICENSES (FROM ULA 5498956)

In connection with the rights granted pursuant to the terms and conditions of this EUOD, the Quantity Based Programs acquired under ULA 5498956 are (a) hereby restated under this EUOD as Quantity Based Programs, and (b) the annual technical support fees associated with the Quantity Based Programs has been added to your technical support obligations as part of the existing technical support attributable to the Converted and Replaced Licenses (as set forth in section D.1 above) and must be maintained as part of the Total Support Stream.

3. ULA 5498956 REMOVED PROGRAM

- a. In connection with the rights granted pursuant to the terms and conditions of this EUOD, you acknowledge and agree that, (a) the program listed in the following table (the "ULA 5498956 Removed Program") is not included in the Unlimited Deployment Programs or the Unlimited Deployment Right under this EUOD, (b) the ULA 5498956 Removed Program is deemed terminated and, except to the extent such programs may be licensed as Quantity Based Programs pursuant to section D.3.b below, you shall no longer have any right to use, access or otherwise benefit from the ULA 5498956 Removed Program and must delete all copies of any versions of the ULA 5498956 Removed Program from your systems, and (c) the annual technical support fees associated with the ULA 5498956 Removed Program remain part of your technical support obligations under this EUOD as reflected in the technical support fees specified in section A of the EUOD, and must continue to be maintained as part of the Total Support Stream.

Existing License	License Metric	CSI Number	Quantity
*Oracle Cloud Management Pack for Oracle Database- Processor Perpetual	PROCESSOR	20253530	Quantity TBD

- b. Within 30 days from the effective date of this EUOD, you agree to certify in writing the quantity of licenses of the ULA 5498956 Removed Program pursuant to the certification process set forth in section C.1.b of the ULA 5498956. Following such certification, you and RFD shall amend this EUOD to specify the quantity of the applicable license type for each program that currently specifies "Quantity TBD" in the table above. You agree that as of the date of certification for such licenses, your use of the any such fixed Quantity Based Program shall be limited to the quantity of licenses certified as of such date.
- c. You further acknowledge and agree that you shall not be entitled to any refund, credit or reduction in the technical support fees associated with the programs licensed under this EUOD or the Total Support Stream in connection with the termination of the ULA 5498956 Removed Program, and you will not be allowed to reinstate the ULA 5498956 Removed Program.

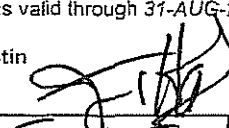
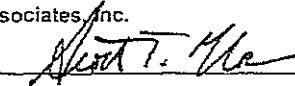
This quote is valid through 31-AUG-2018, and shall become binding upon execution by you and acceptance by RFD.	
City of Austin	RFD & Associates, Inc.
Signature 	Signature 
Name <u>JAMES F. HOWARD</u>	Name <u>SCOTT T. GLOVER</u>
Title <u>Proc MGR</u>	Title <u>COO</u>
Signature Date <u>8/23/18</u>	Signature Date <u>8/22/2018</u>
Effective Date 31-AUG-2018 (to be completed by Oracle)	

EXHIBIT C

City of Austin, Texas NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

City of Austin Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment

advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 22ND day of August, 2018

CONTRACTOR

Authorized
Signature

Title

RFD'S ASSOCIATES, INC.

Robert T. Mc

COO

EXHIBIT D

City of Austin, Texas
Section 0805

NON-SUSPENSION OR DEBARMENT CERTIFICATION

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:

RFAS ASSOCIATES, INC.

Signature of Officer or
Authorized
Representative:

Scott T. Glover

Date:

8/22/2018

Printed Name:

SCOTT T. GLOVER

Title

COO

STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES

CONTRACT FOR PRODUCTS AND RELATED SERVICES

ORACLE AMERICA, INC.

1. Introduction

A. Parties

This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter "DIR") with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Oracle America, Inc. (hereinafter "Vendor"), with its principal place of business at 500 Oracle Parkway, Redwood Shores, California 94065.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts' Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-415, on 11/30/2017, for Oracle Branded Manufacturer Hardware, Software, Cloud and Related Products and Services. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-415 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, License Agreement; Appendix E-1, Sample Ordering Document Hardware and Software Products and First-Year Technical Support; Appendix E-2, Sample Ordering Document Technical Services; Appendix E-3, Sample Ordering Document Advanced Customer Support Services; Appendix E-4, Sample Ordering Document Oracle Linux and Oracle VM Support Services; Appendix E-5, Sample Ordering Document Renewal of Technical Support; Appendix E-6, Sample Ordering Document Oracle University Learning Credits; Appendix E-7, Sample Ordering Document Managed Cloud Services; Appendix E-8, Sample Ordering Document Cloud Services and Technical Cloud Services; Appendix E-9, Sample Ordering Document Technical Cloud Services Appendix E-10, Oracle University Oracle Learning Subscription; Appendix F, Delivery, Installation, Commencement Date and Acceptance; Appendix G, Public Sector General Terms; Appendix H, Public Sector Schedule P—Program; Appendix I, Public Sector Schedule S — Services; Appendix J, Public Sector Schedule LVM—Linux and Oracle VM Service Offerings; Appendix K, Public Sector Schedule H—Hardware Agreement; Appendix L, Schedule M—Oracle Managed Cloud Services; Appendix M, Schedule C—Cloud Services-Public Sector; Appendix N, Data Processing Agreement for Oracle Cloud Services; Appendix O, Oracle Services Privacy Policy; and Appendix P, Sample Statement of Work; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-415, including all addenda; and Exhibit 2, DIR-TSO-TMP-415, including all addenda; are

incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Appendix E-1, then Appendix E-2, then Appendix E-3, then Appendix E-4, then Appendix E-5, then Appendix E-6, then Appendix E-7, then Appendix E-8, then Appendix E-9, then Appendix E-10, then Appendix F, then Appendix G, then Appendix H, then Appendix I, then Appendix J, then Appendix K, then Appendix L, then Appendix M, then Appendix N, then Appendix O, Appendix P, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions. Notwithstanding the foregoing, as between Appendix G (Public Sector General Terms) and the relevant Schedule for the products and services being purchased under the Contract (i.e., Appendix H, Public Sector Schedule P—Program; Appendix I, Public Sector Schedule S—Services; Appendix J, Public Sector Schedule LVM—Linux and Oracle VM Service Offerings; Appendix K, Public Sector Schedule H—Hardware Agreement; Appendix L, Schedule M—Oracle Managed Cloud Services; and Appendix M, Schedule C—Cloud Services-Public Sector), such Schedule shall take precedence over Appendix G (Public Sector General Terms) for such ordered product or service. Furthermore, for Cloud Services, Technical Cloud Services, and Managed Cloud Services, the Data Processing Agreement and the applicable Service Specifications (for Cloud Services) and Schedule incorporated into the Statement of Work (for Managed Cloud Services) shall take precedence; however, in any event this Contract shall prevail over all. Notwithstanding anything to the contrary stated elsewhere in this Contract, the parties understand and agree that Section 1.3 of the Data Processing Agreement means that the terms of that Data Processing Agreement take precedence only over Schedule C - Cloud Services, not over this base Contract.

2. Term of Contract

The initial term of this Contract shall be two years commencing on the last date of approval by DIR and Vendor, with two (2) optional two-year terms. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days. Prior to expiration of each term, the contract will renew automatically under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew.

Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Product and Service Offerings

A. Products

Products available under this Contract are limited to Oracle Branded Hardware, Software, Cloud and Related Products and Services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

DIR recognizes that technology is ever-evolving and advancing. DIR reserves the right to consider the addition of emerging technology such as next generation, enhancements and upgrades for products or services that are within the scope of Oracle Branded Hardware, Software, and Related Products and Services. Vendor may propose such products or services throughout the term of the Contract. Pricing and terms will be negotiated upon DIR acceptance. Any determination will be at DIR's sole discretion and any decision will be final.

B. Services

Services available under this Contract are limited to the services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

Sections 7.2-7.6 of the Data Processing Agreement are subject to the provisions stated in this Section 3.B and the parties understand that the portions of Section 7 of the Data Processing Agreement pertaining to the European Union, European Economic Area, or EU Model Clauses are inapplicable to this Contract.

C. Business Operations Transfer (Outsourcing)

Notwithstanding any other provision of the Contract, a Customer may contract with a facilities management firm ("Outsourcer") to operate the licensed programs on behalf of the Customer provided such operation is either on the Customer's hardware and operating system or the same or comparable hardware and operating system at Outsourcer's site, and provided further (i) the Customer hereby assumes all responsibility for the confidentiality of all confidential information and protection of Oracle's proprietary rights, and (ii) the Customer shall give Oracle written notice of all licensed programs to be managed by Outsourcer at the same time as entering into such a contract, and (iii) the Customer assumes all liability for shipping the licensed programs to Outsourcer's site and return of the licensed programs to the Customer's site, and (iv) in no event shall Outsourcer be allowed to copy the licensed programs or be granted general development use access to the licensed programs except as specified herein and (v) to the extent allowable under Texas Law, the Customer agrees to indemnify Oracle of (a) any claims or demands brought against Oracle or its directors, employees or agents arising from or in connection with any such services provided by Outsourcer, or (b) Outsourcer's failure to abide by the terms and conditions of the Contract.

D. Data Storage Location

With respect to Cloud Services, the data center region refers to the geographic region in which the Cloud Services environment holding the Customer Data is physically located. The applicable data center region shall be set forth on the relevant Order Form and, for data center regions outside of the continental United States, such Order Form shall include a list of the specific countries included in the applicable data center region. For data center regions outside of the continental United States, Vendor and Customer may mutually agree to limit the countries where the cloud services may be performed and the Customer data may be located to a subset of the countries within the applicable data center region. Oracle understands that Customers under this Contract are public sector entities and, as a result, there may be a legal requirement for Customer data be stored in the continental United States. As a result, the data center region applicable to Customer's Orders will be the continental United States, unless otherwise stated in the relevant Order Form. Oracle shall

not change the applicable data center region nor transfer Customer's Cloud Services environment to a data center located outside the applicable data center region, unless an authorization is executed by an authorized representative of the Customer. For clarity, the authorization is required also for transfers of the Cloud Services environment outside the continental United States, in the case of Customer Orders for which the applicable data center region is the continental United States. Such authorization must detail the specified sets of data to be allowed to be located in the specified country(es) for specified periods of time; however, such authorization shall not constitute authorization with respect to any other set of data or to a subsequent change to any other data center region. For avoidance of doubt, this restriction does not apply to an activity taken or initiated by Customer or Customer's end users, such as a remote Cloud Service access from outside the data center region. Where agreed upon by the parties, additional terms regarding access of data by Oracle for support and maintenance from outside the continental United States may be included in the Order Form, including specifics identifying the data to be accessed, the countries from which it will be accessed, and the effective period of the agreement.

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

5. DIR Administrative Fee

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three quarters of one percent (.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.00.

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated by Vendor in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Kelly A Parker, CTPM, CTCM
Director, Cooperative Contracts
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-1647
Facsimile: (512) 475-4759
Email: kelly.parker@dir.texas.gov

If sent to the Vendor:

Sheila Poggi

Contracts Manager, Public Sector Deal Management
Oracle America, Inc.
1910 Oracle Way
Reston, VA 20190
Phone: (703) 364-1507
Email: sheila.poggi@oracle.com

7. Software License, Service and Leasing Agreements

A. Software License Agreement

1) Customers acquiring products, including software licenses under the Contract shall hold, use and operate such products, including hardware and software licenses, subject to compliance with the Software License Agreement set forth in Appendix D, Appendix F, Appendix G, Appendix H, and Appendix K of this Contract. No changes to the Software License Agreement terms and conditions may be made unless previously agreed to between Vendor and DIR. Customers may not add, delete or alter any of the language in Appendix D, Appendix F, Appendix G, Appendix H, or Appendix K; provided however that the Customer and Vendor may agree to additional transaction-specific terms and conditions in an Order Form, including usage limitations, so long as they do not remove the rights or protections of Customer set forth in the Software License Agreement, or the responsibilities of Vendor set forth in the Software License Agreement. Vendor shall make the Software License Agreement terms and conditions available to all Customers at all times.

2) Compliance with the terms and conditions contained in Appendix D, Appendix F, Appendix G, Appendix H, and Appendix K is the responsibility of the Customer. DIR shall not be responsible for any Customer's compliance with the terms and conditions contained in Appendix D, Appendix F, Appendix G, Appendix H, and Appendix K. If DIR purchases software licenses for its own use under this Contract, it shall be responsible for its compliance with the terms and conditions contained in Appendix D, Appendix F, Appendix G, Appendix H, and Appendix K.

B. Service Agreement

Services provided under this Contract shall be in accordance with the Contract, including any applicable Appendices and the relevant Order Form for such service; samples of such Order Forms for services are set forth in Appendix E 1-10 of this Contract.

C. Conflicting or Additional Terms

As provided for elsewhere in this Contract and the Appendices to this Contract, certain of the incorporated or linked or supplemental documents may be subject to change. However, no financial obligation of the Contractor shall be affected by any change in such documents, nor will additional material obligations be placed on the Customer as a result of these changes.

Any update to such linked documents shall only apply to purchases of the associated Vendor product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor's initial response shall apply to that purchase

unless Vendor directly informs Customer of the update before the purchase is consummated.

Upon Customer request, a reference copy of any policies or terms expressly incorporated via hyperlink can be attached to the relevant Order for reference and review by the Customer.

Vendor shall not [without prior written agreement from Customer's authorized signatory,] require any additional document that results in a material reduction in the level of performance or availability of the Services provided: 1) results in a material reduction in the level of performance or availability of the Services provided to the Customer; or 2) imposes additional financial costs, burdens, or obligations upon Customer, or imposes additional material burdens, or obligations upon Customer.

If Vendor attempts to do any of the foregoing, the prohibited documents will be void and inapplicable to the contract between DIR and Vendor or Vendor and Customer, and Vendor will nonetheless be obligated to perform the contract without regard to the prohibited documents, unless Customer elects instead to terminate the contract as provided under this Contract. The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer or Publisher.

8. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Product and Related Services Contracts.

A. Appendix A, Section 1, Contract Scope is hereby restated in its entirety as follows:

The Vendor shall provide the products and related services specified in Section 3 of the Contract for purchase by Customers. In addition, DIR and Vendor may agree to provisions that allow Vendor and/or Order Fulfiller to lease the products offered under the Contract. Terms used in Appendix A shall have the meanings set forth Section 3. Terms used but not defined herein shall have the meaning ascribed to them elsewhere in the Contract as appropriate.

B. Appendix A, Section 2, No Quantity Guarantees is hereby restated in its entirety as follows:

The Contract is not exclusive to the Vendor. Customers may obtain products and related services from other sources during the term of the Contract. DIR makes no express or implied warranties whatsoever that any particular quantity or dollar amount of products and related services will be procured through the Contract.

C. Appendix A, Section 3, Definitions is hereby restated in its entirety as follows:

A. Customer - any Texas state agency, unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, the Electric Reliability Council of Texas, the Lower Colorado River Authority, a volunteer fire department, as defined by Section 152.001, Tax Code, and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, and any local government as authorized through the Interlocal

Cooperation Act, Chapter 791, Texas Government Code, the state agencies and political subdivisions of other states as authorized by Section 2054.0565, Texas Government Code.

- B. **Compliance Check** – an audit, at DIR’s expense, of Vendor’s compliance with the Contract may be performed by, but not limited to, a third party auditor, DIR Internal Audit department, or DIR contract management staff or their designees.
 - C. **Contract** – the document executed between DIR and Vendor into which this Appendix A is incorporated.
 - D. **CPA** – refers to the Texas Comptroller of Public Accounts.
 - E. **Day** - shall mean business days, Monday through Friday, except for State and Federal holidays, unless otherwise specified as calendar days. If the Contract calls for performance on a day that is not a business day, then performance is intended to occur on the next business day. Furthermore, the parties hereby clarify that “day” shall mean a calendar day (unless otherwise specified) when used in Appendices D-O or in an Order Form.
 - F. **Order Form** – is Vendor’s standard ordering document forms used by Customer when placing an order; copies of the standard forms are attached as samples in Appendices E-1 - E-10. The standard forms may be updated by Vendor from time to time upon DIR approval. An Order Form requires the signature of the Customer and the Order Fulfiller.
 - G. **Order Fulfiller** – the party, either Vendor or a party that may be designated as a Reseller (as defined in Section 7.B) by Vendor who is fulfilling a Purchase Order pursuant to the Contract.
 - H. **Purchase Order** - the Customer’s fiscal form or format, which is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, Electronic Purchase Order, or other authorized instrument) and when issued shall mean all funds have been appropriated for such order for the then-current fiscal period.
 - I. **State** – refers to the State of Texas.
- D. **Appendix A, Section 4., General Provisions, A. Entire Agreement**, is hereby restated in its entirety as follows:

The Contract, which includes the Appendices, Exhibits, and the information that is incorporated into the Contract by written reference (including reference to information contained in a URL or referenced policy with any conflicts with the DIR Contract to be addressed as set forth in Section 4.C of Appendix A and 7.C of the DIR Contract), constitutes the entire agreement between DIR and the Vendor. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in the Contract, Appendices, or its Exhibits shall be binding or valid.

The Contract, together with the applicable Order Form, is the complete agreement for the products and/or services ordered by the Customer and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such products and/or services.

E. Appendix A, Section 4.B, Modification of Contract Terms and/or Amendments, Paragraph 2, is restated in its entirety as follows:

- 1) The terms and conditions of the Contract shall govern all transactions by Customers under the Contract. The Contract may only be modified or amended upon mutual written agreement of DIR and Vendor.
- 2) Customers shall not have the authority to modify the terms of the Contract; however, additional Customer terms and conditions that do not conflict with the Contract or that are more beneficial to the Customer and, in each case, are acceptable to Order Fulfiller may be added in an Order Form and given effect. No additional term or condition added in a Purchase Order issued by a Customer can conflict with or diminish a term or condition of the Contract, but the Customer and Order Fulfiller may agree to additional terms and/or conditions that are more beneficial to the Customer. Pre-printed terms and conditions on any Purchase Order issued by Customer hereunder will have no force and effect. In the event of a conflict between a Customer's Purchase Order and the Contract, the Contract terms shall control unless otherwise agreed to in writing by DIR and Vendor.
- 3) Customers and Vendor will negotiate and enter into written agreements regarding statements of work, service level agreements, remedies, acceptance criteria, information confidentiality and security requirements, and other terms specific to their Purchase Orders under the Contract with Vendors.

F. Appendix A, Section 4.D, Assignment, is hereby restated in its entirety as follows:

DIR or Vendor may assign the Contract without prior written approval to: (i) a successor in interest (for DIR, another state agency as designated by the Texas Legislature); or (ii) a subsidiary, parent company or affiliate, or in connection with a merger, consolidation, acquisition, internal restructuring or sale of all or substantially all of the assets of the Vendor; or (iii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority. Assignment of the Contract under the above terms shall require written notification by the assigning party. Any other assignment by a party shall require the written consent of the other party and a mutually agreed written Contract amendment.

G. Appendix A, Section 4.E, Survival, is hereby restated in its entirety as follows:

All applicable software license agreements, warranties or service agreements that were entered into between Vendor and a Customer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract in accordance DIR contract and Order Form terms with DIR contract and agreements terms and subject to the provisions in the related Order Form. All Order Forms (and related Purchase Orders issued and) accepted by Vendor or Order Fulfiller shall survive expiration or termination of the Contract in accordance with DIR Contract and Order Form terms. Rights and obligations under this Contract which by their nature should survive, including, but not limited to the DIR Administrative Fee; and any and all payment obligations invoiced prior to the

termination or expiration hereof; obligations of confidentiality; and, indemnification, will remain in effect after termination or expiration hereof.

H. Appendix A, Section 4.F, Choice of Law, is restated in its entirety as follows:

The laws of the State of Texas shall govern the construction and interpretation of the Contract. Exclusive venue for all actions will be in the courts located in Texas. Nothing in the Contract or its Appendices shall be construed to waive the State's sovereign immunity. Notwithstanding anything contained herein to the contrary, or anything contained in the Data Processing Agreement, the parties understand and agree that they are not submitting to European Union law or jurisdiction.

I. Appendix A, Section 5.A, Definitions, is restated in its entirety as follows:

The parties hereby clarify that this Section 5.A of the Contract applies to Technical Services purchased pursuant to an Order Form for Technical Services, a sample of which is proved in Appendix E-2; and that any deliverables provided to the Customer pursuant to the Contract in accordance with Oracle's provision of Managed Cloud Services, Cloud Services and/or Technical Cloud Services shall be governed by Section 2 (Rights Granted) of Schedule M (Appendix L of this Contract) for Managed Cloud Services or Section 2 (Rights Granted) of Schedule C (Appendix M of this Contract) for Cloud Services and Technical Cloud Services, as applicable.

1) "Work Product" means any and all deliverables produced by Vendor for Customer under a Statement of Work issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the effective date of the Contract, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided to Customer under the Contract or a Statement of Work, and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use or benefit of Customer in connection with this Contract or a Statement of Work, or with funds appropriated by or for Customer or Customer's benefit: (a) by any Vendor personnel or Customer personnel, or (b) any Customer personnel who then became personnel to Vendor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Vendor or its personnel,

any portion of same was created, invented or conceived by such person while affiliated with Customer.

2) "Intellectual Property Rights" means the worldwide legal rights or interests evidenced by or embodied in: (i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (ii) any work of authorship, including any copyrights, moral rights or neighboring rights; (iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

3) "Statement of Work" means a document signed by Customer and Vendor describing a specific set of activities and/or deliverables, which may include Work Product and Intellectual Property Rights, that Vendor is to provide Customer, issued pursuant to the Contract.

4) "Third Party IP" means the Intellectual Property Rights of any third party that is not a party to this Contract, and that is not directly or indirectly providing any goods or services to Customer under this Contract.

5) "Vendor IP" shall mean all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Vendor (a) prior to providing any Services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of Customer relating to the Services or Work Product, or (b) after the Effective Date of the Contract if such tangible or intangible items or things were independently developed by Vendor outside Vendor's provision of Services or Work Product for Customer hereunder and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Vendor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Vendor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

J. Appendix A, Section 5.B, Ownership, is restated in its entirety as follows:

The parties will mutually agree on one of the following provisions (either 5.B.i or 5.B.ii) below, as applicable, to allocate intellectual property rights in deliverables created within the scope of technical services identified in an exhibit under a particular Order Form, a sample of which is provided in Appendix E-2 to the Contract. If an Order Form does not refer to one of the provisions below or otherwise contain or reference terms allocating intellectual property rights in such deliverables, then the intellectual property rights in such deliverables shall be allocated between the parties pursuant to subsection 5.B.i below.

i. "Upon payment for the services under this order, you have the non-exclusive, non-assignable except as otherwise provided for in the Contract, royalty free perpetual, limited right to use for your internal business operations, anything developed by Oracle and delivered to you under this order. You may allow your agents and contractors (including, without limitation, outsourcers) to use the deliverables for this purpose and

you are responsible for their compliance with this order in such use. Oracle retains all ownership and intellectual property rights to anything developed or delivered under this order. For anything developed or delivered under this order that is specifically designed to allow your customers and suppliers to interact with you in the furtherance of your internal business operations, such use is allowed under the agreement.”

ii. “Joint Property” means those deliverables developed by Oracle solely for you under this order and those deliverables developed jointly by Oracle and you under this order; Joint Property does not include any Oracle Works (defined below). Upon payment of all fees due under this order, Oracle and you agree that we each jointly own the copyright interest in Joint Property and that we each do not have to account to one another for use of Joint Property. “Oracle Works” means: (a) anything provided by or on behalf of Oracle from a repository; (b) any software code generated by computer aided software engineering (CASE) tools; (c) any tools, interfaces, and utilities developed by or on behalf of Oracle; and (d) any derivative works of (a) through (c) above. Oracle retains all right, title and interest, including all copyrights, in any Oracle Works. Upon payment of all fees due under this order, you have the non-exclusive, non-assignable, royalty free, perpetual limited right to use, solely as a component of Joint Property, Oracle Works that are incorporated into Joint Property. You may allow your agents and contractors (including, without limitation, outsourcers) to use, as set forth in the preceding sentence, Oracle Works that are incorporated into Joint Property and you are responsible for their compliance with this order in such use. This order does not grant, amend, or modify any license for any programs or documentation owned or distributed by Oracle.

The technical services provided under the Contract may be related to the Customer’s license to use Programs owned or distributed by Vendor which the Customer may acquire under a separate order. The agreement referenced in that order shall govern the Customer’s use of such Programs.

- K. **Appendix A, Section 5.C, Further Actions**, is deleted in its entirety.
- L. **Appendix A, Section 5.D, Waiver of Moral Rights**, is deleted in its entirety.
- M. **Appendix A, Section 5.E, Confidentiality**, is deleted in its entirety.
- N. **Appendix A, Section 5.F, Injunctive Relief**, is deleted in its entirety.
- O. **Appendix A, Section 5.G, Return of Materials Pertaining to Work Product**, is deleted in its entirety.
- P. **Appendix A, Section 5.H, Vendor License to Use**, is deleted in its entirety.
- Q. **Appendix A, Section 5.J, Agreement with Subcontracts**, is deleted in its entirety.
- R. **Appendix A, Section 5.K, License to Customer**, is deleted in its entirety.

S. Appendix A, Section 5.I, is renumbered to be Section 5.C, Third-Party Underlying and Derivative Works, is restated in its entirety as follows:

a. For Services (other than Managed Cloud Services, Cloud Services and Technical Cloud Services) the following terms shall apply to deliverables:

- i. Upon payment for the services under an Order Form, Customer shall have the non-exclusive, non-assignable except as otherwise provided for in the Contract, royalty free perpetual, limited right to use for the Customer's internal business operations, anything developed by Vendor and delivered to the Customer under such Ordering Form. The Customer may allow its agents and contractors (including, without limitation, outsourcers) to use the deliverables for this purpose and the Customer is responsible for their compliance with the Order Form in such use. Unless otherwise provided for in the Order Form pursuant to Appendix A, Section 5.B of the Contract, Vendor retains all ownership and intellectual property rights to anything developed or delivered under an Order Form. For anything developed or delivered under an Order Form that is specifically designed to allow a Customer's customers and suppliers to interact with the Customer in the furtherance of the Customer's internal business operations, such use is allowed under the Contract.
- ii. With respect to Technical Services, Vendor agrees to notify Customer in the Order Form, or on delivery of the Work Product or Technical Services deliverables if the deliverables include any Third Party IP. On request, Vendor shall provide Customer with documentation confirming a third party's written approval for Vendor to use any Third Party IP that may be embodied or reflected in the Work Product as provided for in the Contract.

b. For Managed Cloud Services, the following terms shall apply to deliverables:

During the services term for the Managed Cloud Services ordered and subject to the Customer's payment obligations, and except as otherwise set forth in this Contract, Appendix G – Public Sector General Terms, Appendix L – Schedule M – Managed Cloud Services or the Order Form, the Customer will have a limited, non-exclusive, non-assignable, right to access and use anything developed by Vendor and delivered to the Customer as part of the Oracle Managed Cloud Services specified in the Customer's Order Form solely for the Customer's internal business operations, and subject to the terms of this Contract, Appendix G – Public Sector General Terms, Appendix L - Schedule M – Managed Cloud Services and the applicable Order Form. Vendor retains all ownership and intellectual property rights to anything developed by Vendor and delivered to the Customer as part of Managed Cloud Services under this Contract.

c. For Cloud Services and Technical Cloud Services, the following terms (as set forth in Appendix M – Schedule C - Cloud Services) shall apply to deliverables:

For the duration of the Services Period (as defined in Appendix M – Schedule C - Cloud Services) and subject to the Customer's payment obligations, and except as otherwise set forth in this Contract, Appendix G - Public Sector General Terms, Appendix M – Schedule

C – Cloud Services or the Order Form, the Customer shall have the non-exclusive, non-assignable, royalty free, worldwide, limited right to access and use anything developed by Vendor and delivered to the Customer as part of the Cloud Services or Technical Cloud Services, solely for the Customer's internal business operations and subject to the terms of the Contract, Appendix G – Public Sector General Terms, Appendix M – Schedule C - Cloud Services and the Order Form, including the Service Specifications (as defined in Appendix M – Schedule C - Cloud Services). The Customer may allow its Users (as defined in Appendix M – Schedule C - Cloud Services) to use any such deliverables for this purpose and the Customer is responsible for the Customer's Users' compliance with Contract, Appendix G – Public Sector General Terms, Appendix M – Schedule C - Cloud Services and the Order Form.

- T. Appendix A, Section 5.L, is renumbered to be Section 5.D, Vendor Development Rights, is restated in its entirety as follows:**

Nothing in this Contract shall preclude Vendor from developing for itself, or for others, materials which are competitive with those produced as a result of the Services provided hereunder, provided that no Intellectual Property Rights of Customer therein are infringed by such competitive materials.

- U. Appendix A, Section 6.A, Electronic and Information Resources Accessibility Standards, As Required by 1 TAC Chapters 206 and 213 (Applicable to State Agency and Institution of Higher Education Purchases only), is hereby restated in its entirety as follows:**

1) Effective September 1, 2006, to the extent required by law, state agencies and institutions of higher education shall procure products which comply with the State Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapters 206 and 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

2) The extent to which with 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 or as revised effective March, 2017, and the Web Content Accessibility Guidelines (WCAG) version 2.0 level AA, is indicated by the dependencies, comments and exceptions (some of which may be significant, if any) noted on the applicable 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 VPAT 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 <http://www.fcc.gov/cgb/consumerfacts/trs.html>, 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 under this Contract. Oracle cannot make any commitments about future product directions, including plans to address accessibility or the availability of VPATs. Product direction remains at the sole discretion of Oracle.

V. Appendix A, Section 6.B, Purchase of Commodity Items (applicable to State Agency Purchases Only), is hereby restated in its entirety as follows:

1) Texas Government Code, §2157.068, requires State agencies to buy commodity items (as defined in 6.B.2, below, in accordance with contracts developed by DIR, unless the agency obtains an exemption from DIR, or a written certification that a commodity is not on DIR contract (for the limited purpose of purchasing from a local government purchasing cooperative).

2) Commodity items are commercially available software, hardware and technology services that are generally available to businesses or the public and for which DIR determines that a reasonable demand exists in two or more state agencies. Hardware is the physical technology used to process, manage, store, transmit, receive or deliver information. Software is the commercially available programs that operate hardware and includes all supporting documentation, media on which the software may be contained or stored, related materials, modifications, versions, upgrades, enhancements, updates or replacements. Technology services are the services, functions and activities that facilitate the design, implementation, creation, or use of software or hardware. Technology services include seat management, staffing augmentation, training, maintenance and subscription services. Technology services do not include telecommunications services. Seat management is services through which a state agency transfers its responsibilities to a vendor to manage its personal computing needs, including all necessary hardware, software and technology services.

3) Vendor agrees to coordinate all State agency commodity item sales through existing DIR contracts. Institutions of higher education are exempt from this Subsection 6.B.

W. Appendix A, Section 7. Contract Fulfillment and Promotion, A. Service, Sales and Support of the Contract, is hereby restated in its entirety as follows:

Vendor shall provide service, sales and support resources to serve all Customers throughout the State. It is the responsibility of the Vendor to sell, market, and promote products and services available under the Contract. Vendor shall use its best efforts to ensure that potential Customers are made aware of the existence of the Contract. All sales to Customers for products and services available under the Contract shall be processed through the Contract, except as may be approved otherwise by DIR in writing.

X. Appendix A, Section 7.B, Use of Order Fulfillers, is hereby restated in its entirety as follows:

DIR agrees to permit Vendor to utilize designated third parties to provide sales support resources to Customers (such designated third parties are hereinafter referred to as "Resellers"). Such participation is subject to the following conditions:

1) Designation of Resellers

- a) Vendor may designate Resellers to act as the distributors for products and services available under the Contract. In designating Resellers, and to the extent required by law, Vendor must be in compliance with the State's Policy on Utilization of Historically Underutilized Businesses, a copy of which shall be provided to Vendor. In addition to any required Subcontracting Plan, Vendor shall provide DIR with the following Reseller information: Reseller name, Reseller business address, Reseller CPA Identification Number, Reseller contact person email address and phone number. Vendor may also note that certain Resellers may only sell limited products and/or services offered under the Contract.
- b) DIR reserves the right to require the Vendor to rescind any such Reseller participation or request that Vendor name additional Resellers should DIR determine it is in the best interest of the State.
- c) Vendor shall be responsible for its Resellers' performance under and compliance with the terms and conditions of the Contract to the extent provided in the Contract and subject to the limitations set forth in the Contract. Vendor shall enter into contracts with Resellers and use terms and conditions that are consistent with the terms and conditions of the Contract.
- d) Vendor shall have the right to qualify Resellers and their participation under the Contract provided that: i) any criteria is uniformly applied to all potential Resellers based upon Vendor's established, neutrally applied criteria, ii) the criteria is not based on a particular procurement, and iii) all Customers are supported under the different criteria.
- e) Vendor shall not prohibit Resellers from participating in other procurement opportunities offered through DIR.

2) Changes in Reseller List

Vendor may add Resellers throughout the term of the Contract upon written authorization by DIR. In addition, Vendor may delete Resellers at any time throughout the term of the Contract upon written notice to DIR. Prior to adding or deleting Resellers, Vendor must make a good faith effort in the revision of its Subcontracting Plan in accordance with the State's Policy on Utilization of Historically Underutilized Businesses, a copy of which shall be provided to Vendor. Vendor shall provide DIR with its updated Subcontracting Plan and the Reseller information listed in Section 7.B.1.a above.

3) Reseller Pricing to Customer

Reseller pricing to the Customer for Order Forms placed under this Contract shall comply with the Customer price as stated within Section 4 of the Contract, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee, provided that nothing shall preclude a Reseller from offering Customers prices lower than as stated in Section 4 and Appendix C.

Y. Appendix A, Section 7.C, Product Warranty and Return Policies, is hereby restated in its entirety as follows:

1) Product and Service Warranties

a) Hardware. Vendor provides a limited warranty (the "Oracle Hardware Warranty") for the hardware purchased by the Customer pursuant to the Contract. Vendor warrants that the hardware will be free from, and using the operating system and integrated software and integrated software options will not cause in the hardware, material defects in materials and workmanship for one year from the date the hardware is delivered to Customer. Customer must notify Vendor of any hardware warranty deficiency within one year after delivery. **VENDOR DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE HARDWARE.** You may access a more detailed description of the Oracle Hardware Warranty at <http://www.oracle.com/support/policies.html> ("the warranty web page") incorporated herein by reference. Any changes to the Oracle Hardware Warranty details specified on the warranty web page will not apply to hardware ordered prior to such change. The Oracle Hardware Warranty applies only to hardware that has been (i) manufactured by Vendor and (ii) sold by Vendor (either directly or by a Reseller). The hardware may be new or like new. The Oracle Hardware Warranty applies to Hardware that is new and Hardware that is like-new which has been remanufactured and certified for warranty by Oracle. Replacement units for defective parts or hardware items replaced under the Oracle Hardware Warranty may be new or like new quality.

Notwithstanding the foregoing, Oracle represents that all components sold are warranted as new components. During the course of quality control of a newly manufactured piece of equipment and other manufacturing related initial testing on the new piece of equipment a vendor may need to replace faulty components. Those faulty components may be returned to the originating manufacturing with supporting documentation. If in the opinion of the originating manufacturer, the part (or sub-assembly) subsequently meets Oracle specification, the originating manufacturer may re-ship the product to Oracle as new inventory. On re-certification by Oracle Quality control, that part or sub-assembly is returned to the supply chain inventory for use in the assembly process as new product.

Such replacement units assume the warranty status of the hardware into which they are installed and have not separate or independent warranty of any kind. Title in all defective parts or hardware items shall transfer back to Vendor upon removal from the hardware. The Oracle Hardware Warranty does not apply to normal wear of the hardware or media. The Oracle Hardware Warranty is extended only to the original purchaser of the hardware and may be void in the event that title to the hardware is transferred to a third party.

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

c) **Media.** Vendor warrants that the media for programs, operating system and integrated software purchased by the Customer pursuant to the Contract will be free from material defects in materials and workmanship under normal use for a period of 90 calendar days from the date the media is shipped to Customer. Customer must notify Vendor of any media warranty deficiency within 90 calendar days after delivery. The operating system and integrated software is provided "AS IS".

d) **Services.** Vendor warrants that services (except Managed Cloud Services, Cloud Services and Technical Cloud Services) will be provided in a professional manner consistent with industry standards. Customer must notify Vendor of any services warranty deficiencies within 90 calendar days from performance of the deficient services. The warranties, disclaimers and exclusive remedies for breach of warranty for Managed Cloud Services are provided for in Schedule M (attached as Appendix L to the Contract) and for Cloud Services and Technical Cloud Services are provided for in Schedule C (attached as Appendix M to the Contract).

2) Exclusive Remedies

a) **Hardware.** CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND VENDOR'S ENTIRE LIABILITY FOR ANY BREACH OF THE ABOVE HARDWARE WARRANTIES SHALL BE THE REPAIR OR, AT VENDOR'S OPTION AND EXPENSE, REPLACEMENT OF THE DEFECTIVE PRODUCT, OR, IF SUCH REPAIR OR REPLACEMENT IS NOT REASONABLY ACHIEVABLE, THE REFUND OF THE FEES PAID TO THE ORDER FULFILLER FOR THE DEFECTIVE PRODUCT AND ANY UNUSED, PREPAID FEES FOR TECHNICAL SUPPORT SERVICES RELATED TO SUCH DEFECTIVE PRODUCT.

b) **Programs.** CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND VENDOR'S ENTIRE LIABILITY FOR ANY BREACH OF THE ABOVE PROGRAM WARRANTIES SHALL BE THE CORRECTION OF PROGRAM ERRORS THAT CAUSE BREACH OF THE WARRANTY; OR, IF VENDOR CANNOT SUBSTANTIALLY CORRECT SUCH BREACH IN A COMMERCIALY REASONABLE MANNER, VENDOR MAY END THE RELATED PROGRAM LICENSE AND CUSTOMER MAY RECOVER THE FEES CUSTOMER PAID TO THE ORDER FULFILLER FOR SUCH PROGRAM LICENSE AND ALL UNUSED, PREPAID FEES FOR TECHNICAL SUPPORT SERVICES RELATED TO SUCH PROGRAM LICENSE.

c) **Media.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CONTRACT, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND VENDOR'S ENTIRE LAIBILTY FOR BREACH OF THE ABOVE MEDIA WARRANTIES SHALL BE THE REPLACEMENT OF THE DEFECTIVE MEDIA, PROVIDED IT IS RETURNED TO VENDOR WITHIN THE APPLICABLE WARRANTY PERIOD, AND SUBJECT TO STANDARD SHIPPING AND HANDLING FEES.

d) **Services.** CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND VENDOR'S ENTIRE LIABILITY FOR ANY BREACH OF THE ABOVE SERVICES WARRANTIES, SHALL BE THE REPERFORMANCE OF THE DEFICIENT SERVICES OR, IF VENDOR CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALY REASONABLE MANNER, CUSTOMER MAY END THE RELEVANT SERVICES AND RECOVER THE FEES PAID TO THE ORDER FULFILLER FOR THE DEFICIENT SERVICES.

e) General. TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

3) Invalidation of the Hardware or Media Warranties by Customer

No warranty will apply to hardware, operating system, integrated software, integrated software options or media which has been:

- a) modified, altered or adapted without Vendor's written consent (including modification by removal of the Vendor serial number tag on the hardware);
- b) maltreated or used in a manner other than in accordance with the relevant documentation;
- c) repaired by any third party in a manner which fails to meet Vendor's quality standards;
- d) improperly installed by any party other than Vendor or an authorized Vendor certified installation partner;
- e) used with equipment or software not covered by the warranty, to the extent that the problems are attributable to such use;
- f) relocated without Vendor's written consent, to the extent that problems are attributable to such relocation;
- g) used directly or indirectly in supporting activities prohibited by U.S. or other national export regulations;
- h) used by parties appearing on the most current U.S. export exclusion list;
- i) relocated to countries subject to U.S. trade embargo or restrictions;
- j) used remotely to facilitate any activities in the countries referenced in (h) or (i) above;
- or
- k) purchased from any entity other than Vendor or a Reseller.

- Z. **Appendix A, Section 7.D, Customer Site Preparation**, is hereby restated in its entirety as follows:

Customers shall prepare and maintain its site in accordance with written instructions furnished by Order Fulfiller prior to the scheduled delivery date of any product or service and shall bear the costs associated with the site preparation. Customer acknowledges that to operate certain hardware, its facility must meet a minimum set of site requirements. Such site requirements may change from time to time, as communicated by Order Fulfiller and the applicable documentation provided with the hardware.

- Z. **Appendix A, Section 7.E, Internet Access to Contract and Pricing Information** is hereby restated in its entirety as follows:

1) Vendor Webpage

Within thirty (30) calendar days of the effective date of the Contract, Vendor will establish and maintain a webpage specific to the products and service offerings under the Contract that are clearly distinguishable from other, non-DIR Contract offerings on the Vendor's website. The webpage must include:

- a) the products and services offered;

- b) product and service specifications;
- c) specific Contract pricing;
- d) i) discount percentage (%) off MSRP, or (ii) List Price;
- e) designated Resellers;
- f) contact information (e.g., name, telephone number and/or email address) for Vendor and designated Resellers;
- g) instructions for obtaining Order Forms and placing orders;
- h) Vendor's warranty and order and delivery policies;
- i) return policies;
- j) the DIR Contract number with a hyperlink to the Contract's DIR webpage;
- k) a link to the DIR "Cooperative Contracts" webpage; and
- l) the DIR logo in accordance with the requirements of this Section.

If Vendor does not meet the webpage requirements listed above, DIR may cancel the contract without penalty, subject to the notice and cure provisions set forth in Section 11.B.3. below.

2) Accurate and Timely Contract Information

Vendor will use commercially reasonable efforts to ensure that the website information specified in the above paragraph will be accurately and completely posted, maintained and displayed in an objective and timely manner. Vendor, at its own expense, shall correct any non-conforming or inaccurate information posted at Vendor's website within ten (10) business days after receipt of written notification by DIR.

3) Webpage Compliance Checks

Periodic compliance checks of the information posted for the Contract on Vendor's webpage will be conducted by DIR. Upon request by DIR, Vendor shall provide verifiable documentation that pricing listed upon this webpage is uniform with the pricing as stated in the Contract.

4) Webpage Changes

Vendor hereby consents to a link from the DIR website to Vendor's webpage in order to facilitate access to Contract information. The establishment of the link is provided solely for convenience in carrying out the business operations of the State. DIR reserves the right to suspend, terminate or remove a link at any time, in its sole discretion, without advance notice, or to deny a future request for a link. DIR will provide Vendor with subsequent notice of link suspension, termination or removal. Vendor shall provide DIR with timely written notice of any change in URL or other information needed to access the site and/or maintain the link.

5) Use of Access Data Prohibited

If Vendor stores, collects or maintains data electronically as a condition of accessing Contract information, such data shall only be used internally by Vendor for the purpose of implementing or marketing the Contract, and shall not be disseminated to third parties, other than Resellers or used for other marketing purposes. The Contract constitutes a public document under the laws of the State and Vendor shall not restrict access to Contract terms and conditions including pricing, i.e., through use of restrictive technology or passwords.

6) Responsibility for Content

Vendor is solely responsible for administration, content, intellectual property rights, and all materials at Vendor's website. DIR reserves the right to require a change of listed content if, in the opinion of DIR, it does not adequately represent the Contract.

BB. Appendix A, Section 7.F, DIR Logo, is hereby restated in its entirety as follows:

Vendor and Reseller may use the DIR logo in the promotion of the Contract to Customers with the following stipulations: (i) the logo may not be modified in any way, (ii) when displayed, the size of the DIR logo must be equal to or smaller than the Reseller logo, (iii) the DIR logo is only used to communicate the availability of products and services under the Contract to Customers, and (iv) any other use of the DIR logo requires prior written permission from DIR.

CC. Appendix A, Section 7.G, Vendor and Reseller Logo, is hereby restated in its entirety as follows:

If DIR receives Vendor's prior written approval, DIR may use the Vendor's name and logo in the promotion of the Contract to communicate the availability of products and services under the Contract to Customers. Use of the logos may be on the DIR website or on printed materials. Any use of Vendor's logo by DIR must comply with and be solely related to the purposes of the Contract and any usage guidelines communicated to DIR from time to time. DIR shall not use Vendor's trademarks in a manner that misrepresents its relationship with Vendor or Vendor's products and services, is otherwise misleading or confusing, or reflects negatively on Vendor. If Vendor, in its sole discretion, determines that DIR's use of Vendor's trademarks is not in compliance with the Contract, Vendor shall promptly notify DIR and DIR shall promptly modify or discontinue its use of such trademarks as directed by Vendor. Nothing contained in the Contract will give DIR any right, title, or interest in or to Vendor's trademarks or the goodwill associated therewith, except for the limited usage rights expressly provided by Vendor.

DD. Appendix A, Section 7.H, Trade Show Participation, is hereby restated in its entirety as follows:

Vendor may participate in one or more DIR sponsored trade shows each calendar year. Vendor understands and agrees that participation, at the Vendor's expense, includes providing a manned booth display or similar presence. DIR will provide four months advance notice of any requested participation. Vendor must display the DIR logo at any such requested trade show(s) that potential Customers will attend. DIR reserves the right to approve or disapprove of the location or the use of the DIR logo in or on the Vendor's booth.

EE. Appendix A, Section 7.K, DIR Cost Avoidance, is hereby restated in its entirety as follows:

As part of the performance measures reported to state leadership, DIR must provide the cost avoidance the State has achieved through the Contract. Upon reasonable request by DIR and no more than twice annually, Vendor shall provide DIR with a detailed report of a representative sample of products sold under the Contract. The report shall contain: product

part number, product description, list price, and price to Customer under the Contract, and, to the extent it exists, pricing from any other Vendor contracts with NASPO, GSA, TCPN or TIP.

FF. Appendix A, Section 8.C, Customer Price is hereby restated in its entirety as follows:

1) The price to the Customer shall be calculated as follows:

Customer Price = (MSRP or List Price – Customer Discount as set forth in Appendix C, Pricing Index) x (1 + DIR Administrative Fee Percentage, as set forth in the Contract).

2) Customers purchasing products and services under this Contract may negotiate more advantageous pricing or participate in special promotional offers. In such event, a copy of such better offerings shall be furnished to DIR upon request.

3) If pricing for products or services available under this Contract are provided by the Vendor or its Reseller at a greater discount than the applicable discount in this Contract to a DIR eligible Texas Customer who is not purchasing those products or services under this Contract then the applicable discount in this Contract shall be adjusted to that greater discount by written amendment as set forth herein. The foregoing requirement applies only to products or services provided by Vendor or its Resellers for a quantity of one (1) hardware product under like terms and conditions, and does not apply to volume or special pricing purchases. To the extent that either party provides written notice to the other party that a greater discount was provided by Vendor in accordance with this section, then both parties will utilize best efforts to amend this Contract within thirty (30) business days to reflect the lower price. Any Contract changes finalized pursuant to this section within thirty (30) business days after the date of the notice of such greater discount shall be prospective and not retroactive to the date of that notice. Any Contract changes finalized pursuant to this section more than thirty (30) business days after the date of such notice shall be retroactive to the date of that notice.

GG. Appendix A, Section 8.D, Shipping and Handling Fees is hereby restated in its entirety as follows:

The price to the Customer under this Contract shall include all shipping and handling fees. Shipments will be Free On Board (Oracle's shipping terminology for same is DDP-Delivered Duty Paid) Customer's Destination. No additional fees shall be charged to the Customer for standard shipping and handling within the United States. If the Customer requests expedited or special delivery, or delivery outside of the United States, Customer will be responsible for any charges for expedited or special delivery or such delivery to such locations outside of the United States. Where relevant, each party to this Contract agrees to comply with all relevant export laws and regulations, including the Export Administration Act and Regulations, to assure that no information is exported directly or indirectly, in violation of law.

HH. Appendix A, Section 8.E, Tax Exempt is hereby restated in its entirety as follows:

DIR represents as per Section 151.309, Texas Tax Code, governmental Customers under this Contract are exempt from the assessment of State sales, use and excise taxes. Further, DIR represents that Customers under this Contract are exempt from Federal Excise Taxes, 26

United States Code Sections 4253(i) and (j). Customers shall provide evidence of tax-exempt status to Vendor upon request

II. Appendix A, Section 8.F, Travel Expense Reimbursement is hereby restated in its entirety as follows:

Pricing for services provided under this Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized for state employees as adopted by each Customer; and provided, further, that all reimbursement rates shall not exceed the maximum rates established for state employees under the current State Travel Management Program (<http://www.window.state.tx.us/procurement/prog/stmp/>). Travel time may not be included as part of the amounts payable by Customer for any services rendered under this Contract. The DIR administrative fee specified in Section 5 of the Contract is not applicable to travel expense reimbursement. Anticipated travel expenses will be discussed between the Customer and Vendor prior to inclusion of such estimated travel expenses in the relevant Ordering Form. Travel expenses for a transaction must be approved by the Customer during such discussion and Customer's funding of such travel expenses on a Purchase Order (defined below), after such discussion, will serve as Customer's approval of such travel expenses. Customer shall provide Vendor with a copy of all applicable travel reimbursement policies prior to requiring the Vendor to provide any services for which Vendor might incur travel expenses.

JJ. Appendix A, Section 8.G, Changes to Prices is hereby restated in its entirety as follows:

Vendor may change the price of any product or service at any time, based upon changes to the MSRP, but discount levels shall remain consistent with the discount levels specified in this Contract. Price lists shall be made available at a web site to be accessible by the Customers, as further described in Appendix C; and any updates to such price lists shall take effect automatically during the term of this Contract and shall be passed onto the Customer in all Order Forms (defined below) issued after any such price list updates are effective, published and posted on Vendor's DIR website.

1) Updated price lists must be requested with a signed cover letter (which may be delivered to DIR via email) indicating the change in price and must be accompanied by a copy of the updated manufacturer or publisher's price list.

2) Requests for updated price lists will be accepted or rejected by DIR within thirty (30) calendar days after receipt of a properly submitted request. Updated price lists that are not accepted within thirty (30) calendar days will be deemed rejected. If a properly submitted updated price list is rejected, Vendor may request that the product or service rejected be removed from the Contract. The product or service will be removed from the Contract upon execution of a written Contract amendment, which shall be transmitted to Vendor by DIR within thirty (30) calendar days after receipt of the Vendor's written request to remove the product or service and executed by both parties without undue delay. Existing pricing must

be honored up to the date of execution of the Contract amendment. Vendor anticipates updates to price lists at least once annually; however, price lists may not be updated for at least ninety (90) calendar days after the Contract effective date.

3) In the event that an updated price list that has been rejected under the process described in section 2 above includes a price decrease, such price decrease may be passed onto the Customer in Order Forms.

KK. Appendix A, Section 8.H, Purchase Orders is hereby restated in its entirety as follows:

All orders will be placed directly with the Order Fulfiller. Order Forms shall be effective and binding upon Vendor or Order Fulfiller when accepted by Order Fulfiller; provided that (i) the Order Form is accompanied by a Purchase Order; (ii) the Order Form incorporates the Contract; (iii) the fees on the Purchase Order and Order Form are the same; and (iv) the Order Form is executed by the Customer and the Order Fulfiller. Once an order is accepted by the Order Fulfiller, the Customer's order is non-cancelable and the sums paid nonrefundable, except as provide elsewhere in the Contract.

Vendors will be required to comply with the disclosure requirements of Section 2252.908, Texas Government Code, as enacted by House Bill 1295, 84th Regular Session, when execution of a contract requires an action or vote by the governing body of a governmental entity before the contract may be signed.

LL. Appendix A, Section 8.I, Invoices is hereby restated in its entirety as follows:

- 1) Invoices shall be submitted by the Order Fulfiller directly to the Customer and shall be issued in compliance with Chapter 2251, Texas Government Code. All payments for products and/or services purchased under the Contract and any applicable provision of acceptance of such products and/or services as set forth in the Contract or the applicable Order Form shall be made by the Customer to the Order Fulfiller. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Order Fulfiller will agree to acceptable terms.
- 2) Invoices must be timely and accurate. Each invoice must match Customer's Purchase Order and include any written changes that may apply, as it relates to products, prices and quantities. Invoices must include the Customer's Purchase Order number or other pertinent information for verification of receipt of the product or services by the Customer. Invoices for programs are issued as of the program commencement date. Invoices for hardware are issued as of the hardware commencement date. Technical support services, Managed Cloud Services and Cloud Services are invoiced quarterly in arrears, and Technical Cloud Services and other services are invoiced monthly in arrears and as may be further specified on the relevant Order Form. Travel expenses are invoiced monthly as they are incurred. Oracle University Learning Credits may be invoiced and paid in accordance with state procedures for training or subscription agreements. . Invoices may also include any written changes to the ordered hardware made by the Customer prior to shipment and agreed to by Vendor in accordance with Appendix A, Section 8.H, as well as any changes made by Vendor in the form of a product substitution or

modification to ordered hardware that does not cause a material adverse effect in overall hardware performance. Additionally, the invoices will include any expedited shipping and handling charges (in accordance with Appendix A, Section 8.D), and any pre-approved travel expenses (in accordance with Appendix A, Section 8.F). The Order Fulfiller is permitted to issue multiple invoices for a single Order Form. [Customers may pay for Oracle University Learning Credits in advance.]

- 3) The administrative fee as set forth in Section 5 of the Contract shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

MM. Appendix A, Section 9., Contract Administration, A. Contract Managers is hereby restated in its entirety as follows:

DIR and the Vendor will each provide a Contract Manager to support the Contract. Information regarding the Contract Manager will be posted on the Internet website designated for the Contract.

1) State Contract Manager

DIR shall provide a Contract Manager whose duties shall include but not be limited to: (i) advising DIR and Vendor of Vendor's compliance with the terms and conditions of the Contract, (ii) periodic verification of product pricing, and (iii) verification of monthly reports submitted by Vendor.

2) Vendor Contract Manager

Vendor shall designate a contact person or persons as the Contract Manager to manage Vendor's administrative responsibilities under the Contract. Such Contract Manager will be the point of contact to facilitate matters including but not limited to the following (i) supporting the management of the Contract, (ii) facilitating dispute resolution between a Reseller and a Customer, and (iii) advising DIR of Reseller performance under the terms and conditions of the Contract. DIR reserves the right to require a change in Vendor's then-current Contract Administrator(s) if the assigned Contract Administrator(s) is not or are not, in the reasonable opinion of DIR, adequately serving the needs of the State.

NN. Appendix A, Section 9.B, Reporting and Administrative Fees is hereby restated in its entirety as follows:

1) Reporting Responsibility

a) Vendor shall be responsible for reporting all products and services purchased through Order Fulfillers under the Contract. Vendor shall file the monthly reports, subcontract reports, and pay the administrative fees in accordance with the due dates specified in this section.

b) DIR shall have the right to verify required reports and to take any actions necessary to enforce its rights under this section, including but not limited to compliance checks of Vendor's applicable records pertaining directly to Vendor's performance of services or delivery of products under the Contract at no cost provided that such request for verification under this section is made no more than once per month.

2) Detailed Monthly Report

Vendor shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under the Contract for the previous calendar month period. Reports shall be submitted to the DIR ICT Cooperative Contracts E-Mail Box at ict.sales@dir.texas.gov. Reports are due on the fifteenth (15th) calendar day after the close of the previous month period; provided that if the 15th calendar day falls on a non-business day, then the reports shall be due on the next business day. It is the responsibility of Vendor to collect and compile all sales under the Contract from participating Order Fulfillers and submit one (1) monthly report. The monthly report shall include, per transaction: the detailed invoices for the reporting period, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price (if available), extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the estimated administrative fee due for the reporting period, and other information as reasonably required by DIR for all similarly situated vendors; provided, however, that DIR shall provide Vendor adequate advance notice and time to review and include such information in the reports. Each report must contain all information listed above per transaction or the report will be rejected and returned to the Vendor for correction in accordance with this Section. Notwithstanding the foregoing, should a Reseller be delinquent in providing information to Vendor for inclusion in the related month's report and such report has been submitted to DIR by Vendor, Vendor may include such information in the subsequent month's report rather than correcting or updating the corresponding month's report, and Vendor shall not be deemed to have delivered a late or inaccurate report.

3) Historically Underutilized Businesses Subcontract Reports

- a) Upon request by Customer or DIR, Vendor shall electronically provide each Customer with Vendor's relevant Historically Underutilized Business Subcontracting Report, pursuant to the Contract, as required by Chapter 2161, Texas Government Code. Reports shall also be submitted to DIR.
- b) Reports shall be due in accordance with the applicable provisions of the Texas Administrative Code, Title 34, Part 1, Chapter 20, Section 20.14.

4) DIR Administrative Fee

- a) An administrative fee shall be paid by Vendor to DIR to defray the DIR costs of negotiating, executing, and administering the Contract. The maximum administrative fee is set by the Texas Legislature in the biennial General Appropriations Act. Payment of the administrative fee shall be due on the twentieth (20th) calendar day after the close of the previous month period, provided that if the twentieth (20th) calendar day falls on a non-business day, then the administrative fee shall be due on the next business day. DIR may change the amount of the administrative fee upon thirty (30) days written notice to Vendor without the need for a formal contract amendment.
- b) Vendor shall reference the DIR Contract number, reporting period, and administrative fee amount on any remittance instruments.

5) Accurate and Timely Submission of Reports

a) The reports and administrative fees shall be accurate and timely and submitted in accordance with the due dates specified in this Section. Vendor shall correct any inaccurate reports or administrative fee payments within five (5) business days upon written notification by DIR. Vendor shall deliver any late reports or late administrative fee payments within five (5) business days upon written notification by DIR. If Vendor is unable to correct inaccurate reports or administrative fee payments or deliver late reports and fee payments within five (5) business days, Vendor must contact DIR and provide a corrective plan of action, including the timeline for completion of correction. The corrective plan of action shall be subject to DIR approval.

b) Should Vendor fail to correct inaccurate reports or cure the delay in timely delivery of reports and payments within the corrective plan of action timeline, DIR reserves the right to require an independent third party audit of the Vendor's records as specified in C.3 of this Section at Vendor's expense. Vendor and DIR will attempt to mutually select and agree on the auditor; however, if they cannot do so within 30 days, then DIR will make the selection. If Vendor is found to be responsible for financially inaccurate reports, DIR may invoice for the reasonable costs of the audit, which Vendor must pay within thirty (30) calendar days of receipt.

Failure to timely submit three (3) reports or administrative fee payments within any rolling twelve (12) month period may, at DIR's discretion, result in the addition of late fees of \$100/day for each day the report or payment is due (up to \$1000/month) or suspension or termination of Vendor's Contract.

OO. Appendix A, Section 9.C, Records and Audits is hereby restated in its entirety as follows:

1) Acceptance of funds under the Contract by Vendor and/or Order Fulfiller acts as acceptance of the authority of the State Auditor's Office, or any successor agency or designee, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditor's Office or its successor or designee in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor or directly by Order Fulfillers and the requirement to cooperate is included in any subcontract or Order Fulfiller contract it awards pertaining to the Contract. Under the direction of the Legislative Audit Committee, a Vendor that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.

2) Vendor and Order Fulfillers shall maintain adequate records to establish compliance with the Contract until the later of a period of four (4) years after termination of the Contract or until full, final and unappealable resolution of all Compliance Check or litigation issues that arise under the Contract. Such records shall include per transaction: the Order Fulfiller's company name if applicable, Customer name, invoice date, invoice number, description, part number, manufacturer, quantity, MSRP or list price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the calculations

supporting each administrative fee owed DIR under the Contract, Historically Underutilized Businesses Subcontracting reports, and such other documentation as DIR may request.

3) Vendor and/or Order Fulfillers shall provide all paper and electronic records, books, documents, accounting procedures, practices, and any other items relevant to the performance of the Contract to the DIR Internal Audit department or DIR Contract Management staff, including the compliance checks designated by the DIR Internal Audit department, DIR Contract Management staff, the State Auditor's Office, and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting (provided that such designee is not a competitor of Vendor), Compliance Checking and/or copying such books and records. Vendor and/or Order Fulfillers shall provide copies and printouts requested by DIR without charge. DIR shall provide Vendor and/or Order Fulfillers ten (10) business days' notice prior to inspecting, Compliance Checking, and/or copying Vendor's and/or Order Fulfiller's records. Vendor's and/or Order Fulfillers records, whether paper or electronic, shall be made available during regular office hours. Vendor and/or Order Fulfiller personnel familiar with the Vendor's and/or Order Fulfiller's books and records shall be available to the DIR Internal Audit department, or DIR Contract Management staff and designees as needed. If Vendor is found to be responsible for inaccurate reports, DIR may invoice for the reasonable costs of the audit, which Vendor must pay within thirty (30) calendar days of receipt.

4) For procuring State Agencies whose payments are processed by the Texas Comptroller of Public Accounts, the volume of payments made to Order Fulfillers through the Texas Comptroller of Public Accounts and the administrative fee based thereon shall be presumed correct unless Vendor can demonstrate to DIR's reasonable satisfaction that Vendor's calculation of DIR's administrative fee is correct.

PP. Appendix A, Section 10., Vendor Responsibilities, A. Indemnification, 1) Independent Contractor, 2) Acts or Omissions, 3) Infringements and 4) Property Damage, is hereby restated in their entirety as follows:

1) INDEPENDENT CONTRACTOR

VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, IT IS FURNISHING PRODUCTS AND SERVICES IN THE CAPACITY OF AN INDEPENDENT CONTRACTOR AND THAT VENDOR IS NOT AN EMPLOYEE OF THE CUSTOMER OR THE STATE OF TEXAS.

2) Acts or Omissions

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES, FROM AND AGAINST ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT

WITHOUT FIRST OBTAINING CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

3) Infringements

a) VENDOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND CUSTOMERS, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES, FROM ANY AND ALL THIRD PARTY CLAIMS, WHICH PERTAIN TO ORACLE- BRANDED PRODUCTS AND SERVICES, INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES, VENDOR-NEGOTIATED SETTLEMENT AMOUNTS, AND COURT-AWARDED DAMAGES. THE DEFENSE SHALL BE COORDINATED BY VENDOR, WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT, AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

b) If Vendor becomes aware of an actual or potential claim, or Customer provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against Customer, shall), at Vendor's sole option and expense: (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing;

c) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service in combination with product or services not provided under the Contract; (ii) use of the product or service for a purpose or in a manner for which the product or service was not designed, as provided for in the user documentation or the Service Specifications (as defined in Appendix M (Schedule C-Cloud Services-Public Sector), as applicable; (iii) any modification made to the product without Vendor's written approval; (iv) any modifications made to the product by the Vendor pursuant to Customer's specific instructions, (v) any intellectual property right owned by or licensed to Customer; (vi) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement; or (vii) if the Customer uses a version of product or service which has been superseded via a patch, update, upgrade, fix or similar method or process and the Customer is not using such newer version of the product or service.

d) Vendor will transfer to Customer any third party intellectual property infringement indemnification for non-Oracle Branded Products, Software, and Services delivered under the Contract and transferable to Customer.

e) This section provides the parties' exclusive remedy for any infringement claims or damages.

f) The parties hereby clarify that with respect to Cloud Services, Vendor will not indemnify Customer to the extent that an infringement claim is based on Third Party Content (as defined in Appendix M (Schedule C – Cloud Services – Public Sector)) or any material from a third party portal or other external source that is accessible to Customer within or from the Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, etc.). Vendor will not indemnify Customer for infringement caused by such Customer's actions against any third party if the Cloud Services as delivered to such Customer and used in accordance with the terms of this Contract would not otherwise infringe any third party intellectual property rights. With respect to Cloud Services, the infringement indemnification does not include Separately Licensed Third Party Technology (as defined in Appendix M (Schedule G – General Terms – Public Sector)). Solely with respect to Separately Licensed Third Party Technology that is part of or is required to use the Cloud Services and that is used (a) in unmodified form, (b) as part of or as required to use the Cloud Services, and (c) in accordance with the usage grant for the relevant Cloud Services and all other terms and conditions of this Contract, Vendor will indemnify Customer for infringement claims for Separately Licensed Third Party Technology to the same extent as Vendor is required to provide infringement indemnification under the terms of this Contract.

4) PROPERTY DAMAGE

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS PERTAINING TO BODILY INJURY AND/OR TANGIBLE PERSONAL PROPERTY DAMAGE DUE TO THE NEGLIGENCE, MISCONDUCT, OR INTENTIONALLY WRONGFUL ACT OR OMISSION ON THE PART OF THE VENDOR, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS WHILE PERFORMING OR PARTICIPATING IN SERVICES UNDER AN ORDER FORM AT THE CUSTOMER'S SITE, IF SUCH ACTIONS OR OMISSIONS WERE NOT PROXIMATELY CAUSED BY THE ACTION OR OMISSION OF THE CUSTOMER, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES, VENDOR-NEGOTIATED SETTLEMENT AMOUNTS, AND COURT-AWARDED DAMAGES. THE DEFENSE SHALL BE COORDINATED BY VENDOR, WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT, AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. AS USED IN THIS SECTION, THE TERM "TANGIBLE PERSONAL PROPERTY" SHALL NOT INCLUDE SOFTWARE, DOCUMENTATION, DATA OR DATA FILES. VENDOR SHALL HAVE NO LIABILITY FOR ANY CLAIM OF BODILY INJURY AND/OR TANGIBLE PERSONAL PROPERTY DAMAGE ARISING FROM USE OF SOFTWARE OR HARDWARE, UNLESS THE INJURY OR DAMAGE WAS CAUSED BY VENDOR'S HARDWARE OR SOFTWARE FAILING TO PERFORM ACCORDING TO ITS DOCUMENTATION OR SPECIFICATIONS AS DESCRIBED IN, AND WITH REMEDIES SPECIFIED IN, VENDOR'S ATTACHED WARRANTY PROVISIONS AND PRODUCT/SERVICE SPECIFICATIONS. THIS

SECTION STATES THE PARTIES' ENTIRE LIABILITY AND EXCLUSIVE REMEDY FOR BODILY INJURY AND PROPERTY DAMAGE.

QQ. Appendix A, Section 10.C, Vendor Certifications, is hereby restated in their entirety as follows:

Vendor certifies, as of the effective date of this Contract and to the best of its knowledge that:

- (i) it has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract;
- (ii) it is not currently delinquent in the payment of any franchise tax owed the State and is not ineligible to receive payment under §231.006 of the Texas Family Code and acknowledges the Contract may be terminated and payment withheld if this certification is inaccurate;
- (iii) it has not violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;
- (iv) it has not received payment from DIR or any of its employees for participating in the preparation of the Contract;
- (v) under Section 2155.004, Texas Government Code, it is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate;
- (vi) there are no suits or proceedings pending or threatened against or affecting it, which if determined adversely to them will have a material adverse effect on the ability to fulfill its obligations under the Contract;
- (vii) it is not suspended or debarred from doing business with the federal government as listed in the *System for Award Management (SAM)* maintained by the General Services Administration;
- (viii) it is not listed in the prohibited vendors list authorized by Executive Order #13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the United States Department of the Treasury, Office of Foreign Assets Control;
- (ix) to the extent applicable to this scope of this Contract, it is in compliance with Subchapter Y, Chapter 361, Health and Safety Code related to the Computer Equipment Recycling Program and its rules, 30 TAC Chapter 328;
- (x) it agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas;
- (xi) it is in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency;
- (xii) it certifies for itself and its subcontractors that it has identified all current or former, within the last five years, employees of the State of Texas assigned to work on the Contract 20% or more of their time and has disclosed them to DIR and has disclosed or does not knowingly employ any relative of a current or former state employee within two degrees of consanguinity, and, if these facts change during the course of the Contract, it shall disclose for itself and on behalf of subcontractors the fact of the change, the nature of the change and, unless prohibited by law, the name and other

pertinent information about the employment of current and former employees and their relatives within two degrees of consanguinity. If the preceding is prevented by law, Vendor shall provide the citation to the law to DIR;

- (xiii) it represents and warrants that the provision of products and services or other performance under the Contract will not constitute an actual or potential conflict of interest and certifies that it will not reasonably create the appearance of impropriety, and, if these facts change during the course of the Contract, it certifies that it shall disclose the actual or potential conflict of interest and any circumstances that create the appearance of impropriety;
- (xiv) Under Section 2155.006 and Section 2261.053, Texas Government Code, it is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate;
- (xv) it has complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures;
- (xvi) it represents and warrants that the Customer's payment and the Vendor's receipt of appropriated or other funds under this Contract are not prohibited by Sections 556.005 or Section 556.008, Texas Government Code;
- (xvii) to the extent applicable to this scope of this contract, it is authorized to sell and provide warranty support for all products and services listed in Appendix C of this contract;
- (xviii) it represents and warrants that in accordance with Section 2270.002 of the Texas Government Code, by signature hereon, Vendor does not boycott Israel and will not boycott Israel during the term of this contract.

The foregoing certifications, representations and warranties apply only as to Vendor and any of Vendor's acquired companies from and after the date of acquisition. In addition, Vendor acknowledges the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of the Contract. During the term of the Contract, Vendor shall, for itself and on behalf of its subcontractors, promptly disclose to DIR all changes that occur to the foregoing certifications, representations and warranties. Vendor will use commercially reasonable efforts to cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations and warranties.

In addition, Vendor understands and agrees that if Vendor responds to certain Customer pricing requests or Statements of Work, then, in order to Contract with the Customer, Vendor may be required to comply with additional terms and conditions or certifications that an individual customer may require due to state and federal law (e.g., privacy and security requirements).

RR. Appendix A, Section 10.D, Ability to Conduct Business in Texas, is hereby restated in its entirety as follows:

Vendor is authorized and validly existing under the laws of its state of organization, and shall be authorized to do business in the State of Texas in accordance with Texas Business Organizations Code, Title 1, Chapter 9.

- SS. Appendix A, Section 10.E, Equal Opportunity Compliance**, is hereby restated in its entirety as follows:

Vendor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the State in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Vendor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Vendor under the Contract. If Vendor is found to be not in compliance with these requirements during the term of the Contract, Vendor agrees to take appropriate steps to correct these deficiencies. Upon reasonable request, Vendor will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as necessary information on the composition of its principals and staff, including minorities and women in management or other positions with discretionary or decision-making authority.

- TT. Appendix A, Section 10.F, Use of Subcontractors**, is hereby restated in its entirety as follows:

If Vendor uses any subcontractors in the performance of this Contract, Vendor must make a good faith effort in the submission of its Subcontracting Plan in accordance with the State's Policy on Utilization of Historically Underutilized Businesses (HUB). A revised Subcontracting Plan approved by DIR's HUB Office shall be required before Vendor can engage additional subcontractors in the performance of this Contract. Vendor shall remain solely responsible for the performance of its obligations under the Contract.

- UU. Appendix A, Section 10.G, Responsibility for Actions**, is hereby restated in its entirety as follows:

1) Vendor is solely responsible for its actions and those of its agents, employees, or subcontractors, and agrees that neither Vendor nor any of the foregoing has any authority to act or speak on behalf of DIR or the State.

2) Vendor covenants to fully cooperate with DIR to update and amend the Contract to accurately disclose employment of current or former State employees and their relatives and/or the status of conflicts of interest. If the preceding is prevented by law, Vendor must provide the fact of the change, the nature of the change, and the citation to the law preventing further disclosure to DIR.

- VV. Appendix A, Section 10.H, Confidentiality**, is hereby restated in its entirety as follows:

1) Vendor acknowledges that DIR and Customers that are governmental bodies as defined by Texas Government Code, Section 552.003 are subject to the Texas Public Information Act. Vendor also acknowledges that DIR and Customers that are governmental bodies will comply with the Public Information Act, and with all opinions of the Texas Attorney General's office concerning this Act. DIR and Customers agree to provide Vendor reasonable notice prior to

disclosing any Vendor Confidential Information in response to a valid request made pursuant to the Texas Public Information Act.

2) By virtue of the Contract and orders submitted under the Contract, DIR, the Customer and Vendor may have access to information that is confidential to one another ("Confidential Information"). Each of the parties agrees to disclose only Confidential Information that is required for the performance of obligations under the Contract or any Order Form (and corresponding Purchase Order). Confidential Information shall be limited to 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; (d) is independently developed by the other party or (e) is required to be disclosed pursuant to the Texas Public Information Act. Except as set forth in the immediately following sentence, the parties agree to hold each other's Confidential Information in confidence for a period of three years from the date of disclosure. Regarding any Cloud Services purchased by a Customer, with respect to such Customer Your Content (as defined in Appendix M) and Your Applications (as defined in Appendix M) residing in the applicable Services Environment (as defined in Appendix M) will be considered Confidential Information, and Vendor will (i) hold such Confidential Information in confidence for as long as it resides in the Services Environment and (ii) protect the confidentiality of such Confidential Information in accordance with the Vendor security practices defined in the Service Specifications (as defined in Appendix M) applicable to such Customer's order. Also, each of the parties agrees to disclose Confidential Information only to those employees or agents who are required to protect it against unauthorized disclosure. Nothing shall prevent any party from disclosing the terms or pricing under the Contract or orders submitted under the Contract in any legal proceeding arising from or in connection with the Contract or disclosing the Confidential Information to a federal or state governmental entity as required by law.

WW. Appendix A, Section 10.I, Security of Premises, Equipment, Data and Personnel, is hereby restated in its entirety as follows:

When performing on-site installation services and/or packaged services for a Customer under an Order Form, Vendor and/or Order Filler may, from time to time during the performance of the Contract, have access to the personnel, premises, equipment, and other property, including data, files and /or materials that Vendor did not create as a deliverable under an Order Form (collectively referred to as "Data") belonging to the Customer. When performing on-site services, Vendor and/or Reseller shall follow Customer's instructions to preserve the safety, security, and the integrity of the personnel, premises, equipment, Data and other property of the Customer, in accordance with the reasonable instructions of the Customer which will be provided to Vendor in advance in writing to the extent practicable. Vendor and/or Reseller shall be responsible for damage to Customer's equipment, workplace, and its contents (but excluding software, documentation, Data or data files) when such damage is caused by the negligent or intentionally wrongful actions or omissions of its employees or subcontractors if such actions or omissions were not proximately caused by the action or omission of the Customer or any third party. If a Vendor and/or Reseller fails to comply with

Customer's security requirements (provided that the Customer provides the security requirements to Vendor in advance and as provided above in this Section, then Customer may immediately terminate its Purchase Order and related Order Form.

XX. Appendix A, Section 10.J, Background and/or Criminal History Investigation is hereby restated in its entirety as follows:

Prior to commencement of any services, background and/or criminal history investigation of the Vendor and/or Order Fulfiller's employees and subcontractors who will be providing services to the Customer under the Contract may be performed by certain Customers having legislative authority to require such investigations. Should any employee or subcontractor of the Vendor and/or Order Fulfiller who will be providing services to the Customer under the Contract not be acceptable to the Customer as a result of the background and/or criminal history check, then Customer may immediately terminate its Purchase Order and related Order Form or request replacement of the employee or subcontractor in question. In the event that Customer conducts a background check on Vendor and/or Order Fulfiller personnel under the Contract, the terms of such background check will be outlined in the applicable Order Form.

YY. Appendix A, Section 10.K, Limitation of Liability, is hereby restated in its entirety as follows:

1) For any claim or cause of action arising under or related to the Contract or any Order Form (and corresponding Purchase Order: (a) to the extent not prohibited by the Constitution and the laws of the State of Texas, none of the parties shall be liable to the other for any indirect, incidental, punitive, special, or consequential damages, even if it is advised of the possibility of such damages, or any loss of profits, revenue, data or data use; and (b) except with respect to the exclusive infringement indemnification provided for in Appendix A, Section 10.A.3, Vendor's maximum liability for damages of any kind arising out of or related to the Contract or any Order Form (and corresponding Purchase Order), whether in contract or tort, or otherwise, to the Customer shall be limited to the total amount paid to the Order Fulfiller by such Customer under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action, and if such damages result from Customer's use of programs, hardware or services, such liability shall be limited to the fees paid by such Customer to Order Fulfiller for the deficient program, hardware or services giving rise to the liability.

2) Notwithstanding clause (1)(a) in the immediately preceding paragraph in this section 10.K, for any claim or cause of action arising out of the misappropriation of a Customer's nonpublic personal information residing in such Customer's Services Environment (as defined in Appendix M) that results solely from Vendor's breach of its security practices incorporated into such Customer's applicable order of Cloud Services (as defined in Appendix M), Vendor's aggregate liability for damages of any kind under the Contract shall be limited to four (4) times the total amounts actually paid to Vendor for the Cloud Services under the order that is subject of the claim in the 12-month period immediately preceding the event giving rise to such claim; Vendor's aggregate liability under the Contract shall not exceed \$3,000,000.

3) For any claim or cause of action arising exclusively from Platform-as-a-Service and/or Infrastructure-as-a-Service Cloud Services under this Contract: (a) to the extent not prohibited by the Constitution and the laws of the State of Texas, none of the parties shall be liable to the other for indirect, incidental, punitive, special, or consequential damages, even if it is advised of the possibility of such damages, or any loss of profits, revenue, data or data use; and (b) Vendor's aggregate liability for damages of any kind under the Contract other than for claims for third party patent, trademark or copyright infringement ("IP Claims") shall be limited to the lesser of: (y) thirty-six times the average monthly amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action; or (z) \$20,000,000. Vendor's aggregate liability under the Contract for IP Claims shall not exceed \$15,000,000. CUSTOMERS SHOULD EVALUATE THEIR RISK FOR EACH PURCHASE: IF NEEDED, CUSTOMERS MAY NEGOTIATE HIGHER LIMITATIONS OF LIABILITY.

ZZ. Appendix A, Section 10.M, Prohibited Conduct, is hereby restated in its entirety as follows:

Vendor represents and warrants that, to the best of its knowledge as of the date of this certification, Vendor has not communicated its response to the Request for Offer directly or indirectly to any competitor or any other person engaged in such line of business during the procurement for the Contract.

AAA. Appendix A, Section 10.N, Required Insurance Coverage, is hereby restated in its entirety as follows:

As a condition of this Contract with DIR, Vendor shall provide the listed insurance coverage within five (5) business days of execution of the Contract if the Vendor is awarded services which require that Vendor's employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, the Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. Vendor may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. All required insurance must be issued by companies that have an A rating and a Financial Size Category Class of VII from A.M. Best and are licensed in the State of Texas, and authorized to provide the corresponding coverage. The Customer and DIR will be named as Additional Insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor there under. The minimum acceptable insurance provisions are as follows:

1) Commercial General Liability

Commercial General Liability must include \$1,000,000 per occurrence for Bodily Injury and Property Damage, with a separate aggregate limit of \$2,000,000; Medical Expense per person of \$5,000; Personal Injury and Advertising Liability of \$1,000,000; Products/Completed Operations Aggregate Limit of \$2,000,000; and Damage to Premises Rented: \$50,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR and Customer listed as an additional insured;
- d) Waiver of Subrogation.

2) Workers' Compensation Insurance

Workers' Compensation Insurance and Employers' Liability coverage must include limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 8308-1.01 et seq. Tex. Rev. Civ. Stat) and minimum policy limits for Employers' Liability of \$1,000,000 bodily injury per accident, \$1,000,000 bodily injury disease per employee and \$1,000,000 per disease policy limit.

3) Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- a) Waiver of Subrogation; and
- b) Additional Insured.

BBB. Appendix A, Section 10.P, Immigration, is hereby restated in its entirety as follows:

Vendor shall comply with all requirements related to federal immigration laws and regulations, including but not limited to, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any U.S. based employee(s) who will perform any labor or services pursuant to an Order Form under this Contract.

The Vendor shall require its subcontractors to comply with the requirements of this Section and the Vendor is responsible for the compliance of its subcontractors. Nothing herein is intended to exclude compliance by Vendor and its subcontractors with all other relevant federal immigration statutes and regulations promulgated pursuant thereto.

CCC. Appendix A, Section 10.R, Product and/or Service Substitutions, is hereby restated in its entirety as follows:

Vendor may make product substitutions and modifications that do not cause a material adverse effect on overall product performance. Any changes to Vendor's services will not result in a material reduction in the level of services provided for supported programs or hardware during the period for which fees for such services have been paid.

- DDD. Appendix A, Section 10.S, Secure Erasure of Hard Disk Products and/or Services**, is deleted in its entirety.

Vendor agrees that all products and/or services equipped with hard disk drives (i.e. computers, telephones, printers, fax machines, scanners, multifunction devices, etc.) shall have the capability to securely erase data written to the hard drive prior to final disposition of such products and/or services, either at the end of the Customer's Managed Services product's useful life or the end of the related Customer Managed Services Agreement for such products and/ services, in accordance with NIST 800-88, and in accordance with 1 TAC 202 to the extent 1 TAC 202 contains the same guidelines or requirements contained in NIST 800-88.

- EEE. Appendix A, Section 10.T, Deceptive Trade Practices; Unfair Business Practices**, is hereby restated in its entirety as follows:

1) Vendor represents and warrants that as of the effective date of this Contract and to the best of its knowledge, neither Vendor nor any of its Subcontractors has been (i) found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations as defined under Chapter 17, Texas Business & Commerce Code, or (ii) has outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

2) Vendor certifies that as of the effective date of this Contract and to the best of its knowledge it has no officers who have served as officers of other entities who (i) have been found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations or (ii) have outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

- FFF. Appendix A, Section 10.U, Drug Free Workplace Policy** is hereby restated in its entirety as follows:

Vendor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 41 U.S.C. §8101-8106 and maintain a drug-free work environment.

- GGG. Appendix A, Section 10.V, Accessibility of Public Information**, is hereby restated in its entirety as follows:

1) Pursuant to S.B. 1368 of the 83rd Texas Legislature, Regular Session, upon reasonable written request to Vendor, Vendor shall make any public information (as defined in Texas Government Code Section 552.002) in Vendor's possession which was created or exchanged with the State pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in paper or electronic format that is accessible by the public to the State. For the avoidance of doubt, providing any such information under this Section shall not be deemed a violation of any confidentiality provision by Vendor under this Contract or any Order Form. Public information requests must be directed to the appropriate government employee in accordance with the statute.

2) Each State government entity may supplement the provision set forth in Subsection 10.V.1, above, with any applicable additional terms agreed upon by the parties and set forth in the relevant Order Form regarding the specific format by which the Vendor is required to make the information accessible by the public.

HHH. Appendix A, Section 11., Contract Enforcement, A. Enforcement of Contract and Dispute Resolution is hereby restated in its entirety as follows:

1) Vendor and DIR agree that a party's failure to require strict performance of any provision of the Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision.

2) To the extent required by law, or subsequently agreed to by Customer and Vendor, disputes arising between a Customer and the Vendor and not resolved in the normal course of business and not involving Vendor's intellectual property shall be resolved in accordance with the following dispute resolution process. DIR shall not be a party to any such dispute unless DIR, Customer, and Vendor agree in writing.

3) State agencies are required by rule (34 TAC §20.115) to report vendor performance through the Vendor Performance Tracking System (VPTS) on every purchase over \$25,000.

4) In the event of any dispute or disagreement between the parties arising out of or relating to this Contract or an Order Form (the "dispute"), the parties will endeavor to resolve the dispute in accordance with this section. Either party may invoke this section by providing the other party written notice of its decision to do so, including a description of the issues subject to the dispute. Each party will appoint a Vice President (or the equivalent) to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief, may begin until such Vice President (or the equivalent) concludes, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. The parties shall refrain from exercising any termination right and shall continue to perform their respective obligations under this Contract and the applicable Order Form while the parties endeavor to resolve the dispute under this section, provided that, any party alleged to be in breach promptly makes good faith efforts to cure the breach and pursues the cure in good faith.

III. Appendix A, Section 11.B, Termination, is restated in its entirety as follows:

1) Termination for Non-Appropriation

a) Termination for Non-Appropriation by Customer

Customer may terminate Order Forms if funds sufficient to pay its obligations under the Contract are not appropriated: i) by the governing body on behalf of local governments; ii) by the Texas legislature on behalf of state agencies; or iii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Vendor and/or Order Fulfiller will be provided ten (10) calendar days written notice of intent to terminate. Notwithstanding the foregoing, if a Customer issues a Purchase Order and has accepted

delivery of the product or services, they are obligated to pay for the product or services. In the event of such termination, the Customer will not be considered to be in default or breach under this Contract, nor shall it be liable for any further payments ordinarily due under this Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

b) Termination for Non-Appropriation by DIR

DIR, in its capacity as the administrator of the Contract, may terminate Contract if funds sufficient to pay its obligations, in its capacity as the administrator of the Contract, under the Contract are not appropriated: by the i) Texas legislature or ii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Vendor and/or Order Filler will be provided thirty (30) calendar days written notice of intent to terminate. In the event of such termination, DIR will not be considered to be in default or breach under this Contract, nor shall it be liable for any further payments ordinarily due under this Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

2) Absolute Right

DIR shall have the absolute right to terminate the Contract without recourse in the event that: i) Vendor becomes listed on the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control; ii) Vendor becomes suspended or debarred from doing business with the federal government as listed in the System for Award Management (SAM) maintained by the General Services Administration; or (iii) Vendor is found by DIR to be ineligible to hold this Contract under Subsection (b) of Section 2155.006, Texas Government Code. Vendor shall be provided written notice in accordance with Section 12.A, Notices, of intent to terminate.

3) Termination for Convenience

DIR or Vendor may terminate the Contract, in whole or in part, by giving the other party thirty (30) calendar days written notice. A Customer may terminate an Order Form and corresponding Purchase Order for technical support services by giving the other party thirty (30) calendar days written notice. If a Customer terminates an Order Form and corresponding Purchase Order for technical support services pursuant to this provision, the Customer shall pay for the amounts that have accrued for the products and services received prior to the termination of such Order Form and corresponding Purchase Order.

4) Termination for Cause

a) Contract

Either DIR or Vendor may issue a written notice of default to the other upon the occurrence of a material breach of any covenant, warranty or provision of the Contract, upon the following preconditions: first, the parties must comply with the requirements of Section 11.A.2 above in an attempt to resolve a dispute; second, after complying with Section 11.A.2 above, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said

default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Contract. Customers purchasing products or services under the Contract have no power to terminate the Contract for default.

b) Order Form/Purchase Order

Customer or Order Fulfiller may terminate an Order Form and corresponding Purchase Order upon the occurrence of a material breach of any term or condition: (i) of the Contract, or (ii) included in the Order Form in accordance with Section 4.B.2 above, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code, in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Order Form and the corresponding Purchase Order. If a Customer terminates an Order Form and corresponding Purchase Order pursuant to this provision, the Customer shall pay for the amounts that have accrued for the products and services received prior to the termination of such Order Form and corresponding Purchase Order.

5) Customer Rights Under Termination

Except as provided in Section 11.B.6 below, in the event the Contract expires or is terminated for any reason in accordance with Section 11.B, a Customer shall retain its rights under the Contract and the Order Form and corresponding Purchase Order accepted by Order Fulfiller prior to the termination or expiration of the Contract. The Order Form and corresponding Purchase Order shall survive the expiration or termination of the Contract for its then effective term.

6) Vendor or Reseller Rights Under Termination

In the event a license is terminated by the Vendor under Section 7.C or Section 10.A above or an Order Form and a corresponding Purchase Order expires or is terminated by Vendor or Order Fulfiller pursuant to Section 11.B.4.b above, a Customer 1) shall pay within thirty (30) calendar days of such termination all amounts which have accrued prior to such termination, as well as all sums remaining unpaid for (i) hardware and programs ordered and, if applicable under this Contract accepted, and/or (ii) services received under the Order Form and corresponding Purchase Order and 2) may not use the programs and/or services under Section 7.C or Section 10.A above or ordered under the terminated Order Form and corresponding Purchase Order.

III. Appendix A, Section 11.C, Force Majeure, is restated in its entirety as follows:

DIR, Customer, or Order Fulfiller may be excused from performance under the Contract for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, electrical, Internet or telecommunication outage not caused by the obligated party, government restrictions (including the denial or cancellation of any export or other license), or court order or other event outside the reasonable control of the obligated

party, provided that the party experiencing the event of Force Majeure has prudently and promptly acted to take all reasonable steps that are within the party's control to ensure performance and to shorten the duration of the event of Force Majeure. The party suffering an event of Force Majeure shall provide notice of the event to the other parties when commercially reasonable. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination. If such Force Majeure event continues for more than 90 calendar days, either party may cancel unperformed services upon written notice. This section does not excuse any party's obligation to take reasonable steps to follow its normal disaster recovery procedures or the Customer's obligations to pay for programs and hardware delivered or services provided.

KKK. Appendix A, Section 12, Notification, is restated in its entirety as follows:

A. Notices

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to the Contract shall be in writing and shall be validly given on: (i) the date of delivery if delivered by email, facsimile transmission, mailed by registered or certified mail, or hand delivered, or (ii) three business days after being mailed via United States Postal Service. All notices under the Contract shall be sent to a party at the respective address indicated in Section 6 of the Contract or to such other address as such party shall have notified the other party in writing. Notwithstanding the foregoing, the parties hereby clarify that with respect to the provision of Cloud Services, certain notices may be provided in accordance with Section 17 of Appendix M (Schedule C—Cloud Services-Public Sector).

B. Handling of Written Complaints

In addition to other remedies contained in the Contract, a person contracting with DIR may direct their written complaints to the following office:

Public Information Office
Department of Information Resources
Attn: Public Information Officer
300 W. 15th Street, Suite 1300
Austin, Texas 78701
(512) 475-4759, facsimile

(Remainder of page intentionally left blank)

This Contract is executed to be effective as of the date of last signature.

ORACLE AMERICA, INC.

Authorized By: _____

Name: _____

Title: _____

Date: _____

The State of Texas, acting by and through the Department of Information Resources

Authorized By: _____

Name: Hershel Becker

Title: Chief Procurement Officer

Date: _____

Office of General Counsel: _____

APPENDIX C
TO DIR CONTRACT NO. DIR-TSO-4158
PRICING INDEX

For the term of the Contract, Customers may order products and services in accordance with the discounts set forth below, provided that the products are in production release or generally available to Oracle's commercial customers at the time of the applicable order. These discounts may not be used in conjunction with any other discounts or special promotions offered by Vendor; and these discounts do not apply to any products that are priced in advance of availability, any products on controlled availability, or any third-party products.

A. HARDWARE AND ENGINEERED SYSTEMS AND ASSOCIATED SOFTWARE (except for Oracle Hospitality)

Table A-1. Discount Table for Product Offering and First Year of Technical Support (See Note #1)			
NAMED PRODUCT HIERARCHY	CUSTOMER DISCOUNT	HIGHER EDUCATION DISCOUNT	LIST PRICE
10 Gigabit Ethernet Switch Options	15%	18%	See Note #2
10 Gigabit Ethernet Switches	15%	18%	See Note #2
Advanced Support Gateway Server	14%	20%	See Note #2
Big Data Appliance	15%	15%	See Note #3
Big Data Connectors Software	25%	25%	See Note #3
Brocade Hardware	24%	34%	See Note #2
Brocade SAN Software	24%	34%	See Note #2
Brocade Software	24%	34%	See Note #2
CMT Server Configured Options	15%	18%	See Note #2
Disk Drives	14%	20%	See Note #2
Enterprise Installation Services	0%	0%	See Note #2
Enterprise Tape Drive Conversion Options	24%	34%	See Note #2
Entry Level LTO 5 Tape Drives	24%	34%	See Note #2
Exadata Hardware Products	20%	20%	See Note #3
Exadata Software Products	25%	25%	See Note #3
Exalogic Hardware Products	20%	20%	See Note #3
Exalogic Software Products	25%	25%	See Note #3
Exalytics Hardware Products	15%	15%	See Note #3
Exalytics Software Products	25%	25%	See Note #3
Fabric Interconnect F1-15	15%	18%	See Note #2
Fibre Channel Host Bus Adapters	14%	20%	See Note #2
Fujitsu M10 Server (Oracle Japan)	0%	0%	See Note #2
Fujitsu M10 Server Configured Options	15%	18%	See Note #2
Fujitsu M10 Server Features	15%	18%	See Note #2
Fujitsu M10 Server X-Options	15%	18%	See Note #2
Fujitsu M10-1 Server	15%	18%	See Note #2
Fujitsu M10-4 Server	15%	18%	See Note #2
Fujitsu M12 Server	15%	18%	See Note #2
Fujitsu SPARC M12 Server	15%	18%	See Note #2
High-End M-Series Server X-Options	28%	34%	See Note #2
High-End M-Series Servers (Oracle Japan)	0%	0%	See Note #2
Host Bus Adapters	14%	20%	See Note #2
I/O Modules	15%	18%	See Note #2
Infiniband Host Channel Adapters	14%	20%	See Note #2

Table A-1. Discount Table for Product Offering and First Year of Technical Support (See Note #1)

NAMED PRODUCT HIERARCHY	CUSTOMER DISCOUNT	HIGHER EDUCATION DISCOUNT	LIST PRICE
Infiniband Infrastructure	14%	20%	See Note #2
Infiniband Switches	28%	34%	See Note #2
Key Management Appliance Temp	24%	34%	See Note #2
Key Management Switch Accessory Kits	24%	34%	See Note #2
LTO Conversion Options	24%	34%	See Note #2
LTO Tape Drive Features	24%	34%	See Note #2
LTO5 Tape Drives	24%	34%	See Note #2
LTO5 Tape Drives (SL150)	24%	34%	See Note #2
LTO6 Tape Drives: AS400	24%	34%	See Note #2
LTO6 Tape Drives: Desktop/Rackmount	24%	34%	See Note #2
LTO6 Tape Drives: Entry Level	24%	34%	See Note #2
LTO6 Tape Drives: High-End Libraries	24%	34%	See Note #2
LTO6 Tape Drives: Midrange Libraries	24%	34%	See Note #2
LTO7 Tape Drives: Desktop/Rackmount	24%	34%	See Note #2
LTO7 Tape Drives: Entry Level	24%	34%	See Note #2
LTO7 Tape Drives: High-End Libraries	24%	34%	See Note #2
LTO7 Tape Drives: Midrange Libraries	24%	34%	See Note #2
Midrange M-Series Server X-Options	28%	34%	See Note #2
Netra Server X3-2	15%	18%	See Note #2
Netra Server X5-2	15%	18%	See Note #2
Netra SPARC S7-2 Server	5%	8%	See Note #2
Network Adapters	14%	20%	See Note #2
Network Cables	14%	20%	See Note #2
Network Modular System	15%	18%	See Note #2
Network Transceivers	14%	20%	See Note #2
Oracle Database Appliance	14%	20%	See Note #2
Oracle Fabric Manager	20%	25%	See Note #2
Oracle Fabric Monitor	20%	25%	See Note #2
Oracle FS Storage System Options	15%	18%	See Note #2
Oracle FS1-2 Storage System	15%	18%	See Note #2
Oracle Replication Engine	15%	18%	See Note #2
Oracle SDN	20%	25%	See Note #2
Oracle Server X5-2	14%	20%	See Note #2
Oracle Server X5-2L	14%	20%	See Note #2
Oracle Server X5-4	14%	20%	See Note #2
Oracle Server X5-8	14%	20%	See Note #2
Oracle Server X6-2	14%	20%	See Note #2
Oracle Server X6-2L	14%	20%	See Note #2
Oracle Server X7 Options	14%	20%	See Note #2
Oracle Server X7-2	14%	20%	See Note #2
Oracle Server X7-2L	14%	20%	See Note #2
Oracle Solaris Cluster Software	16%	50%	See Note #2
Oracle Solaris Legacy Containers	16%	50%	See Note #2
Oracle Sun QFS Software	15%	18%	See Note #2
Oracle ZFS Backup Appliances	24%	34%	See Note #2

Table A-1. Discount Table for Product Offering and First Year of Technical Support (See Note #1)

NAMED PRODUCT HIERARCHY	CUSTOMER DISCOUNT	HIGHER EDUCATION DISCOUNT	LIST PRICE
Oracle ZFS Storage Options	24%	34%	See Note #2
Oracle ZFS Storage ZS3-2	24%	34%	See Note #2
Oracle ZFS Storage ZS4-4	24%	34%	See Note #2
Oracle ZFS Storage ZS5-2	24%	34%	See Note #2
Oracle ZFS Storage ZS5-4	24%	34%	See Note #2
Other Server Configured Options	6%	6%	See Note #2
Other Server X-Options	14%	20%	See Note #2
Pillar Axiom SAN Storage Replication Features	15%	18%	See Note #2
Power Cords	14%	20%	See Note #2
Private Cloud Appliance	15%	15%	See Note #2
Racks	15%	18%	See Note #2
SAS Host Bus Adapters	14%	20%	See Note #2
Secure Global Desktop Software	16%	50%	See Note #2
Server Hard Disk Drives	14%	20%	See Note #2
Server Solid State Disks	14%	20%	See Note #2
SL150 Tape Library	24%	34%	See Note #2
SL150 Tape Library Features	24%	34%	See Note #2
SL150 Tape Library Options	24%	34%	See Note #2
SPARC M5 Server Configured Memory	15%	18%	See Note #2
SPARC M5 Server Configured Options	15%	18%	See Note #2
SPARC M5 Server X-Option Memory	15%	18%	See Note #2
SPARC M6-32 Server Configured Options	15%	18%	See Note #2
SPARC M6-32 Server X-Options	15%	18%	See Note #2
SPARC M7 Server	15%	18%	See Note #2
SPARC M7 Server Configured Options	15%	18%	See Note #2
SPARC M7 Server X-Options	15%	18%	See Note #2
SPARC S7 Server X and Configured Options	5%	8%	See Note #2
SPARC S7-2 Server	5%	8%	See Note #2
SPARC S7-2L Server	5%	8%	See Note #2
SPARC SuperCluster Hardware Products	15%	18%	See Note #3
SPARC T3 Server Configured Options	15%	18%	See Note #2
SPARC T4 Server X-Options	15%	18%	See Note #2
SPARC T5 Server Configured Options	15%	18%	See Note #2
SPARC T5 Server X-Options	15%	18%	See Note #2
SPARC T5 Server X-Options	15%	18%	See Note #2
SPARC T5-1B Blade Server Module	15%	18%	See Note #2
SPARC T5-2 Server	15%	18%	See Note #2
SPARC T5-4 Server	15%	18%	See Note #2
SPARC T5-8 Server	15%	18%	See Note #2
SPARC T7 Server Configured Options	15%	18%	See Note #2
SPARC T7 Server X-Options	15%	18%	See Note #2
SPARC T7-1 Server	15%	18%	See Note #2
SPARC T7-2 Server	15%	18%	See Note #2
SPARC T7-4 Server	15%	18%	See Note #2
Spare Parts	29%	29%	See Note #2

Table A-1. Discount Table for Product Offering and First Year of Technical Support (See Note #1)

NAMED PRODUCT HIERARCHY	CUSTOMER DISCOUNT	HIGHER EDUCATION DISCOUNT	LIST PRICE
Storage Archive Manager	22%	50%	See Note #2
Storage Hard Disk Drives	14%	20%	See Note #2
Storage SAS SSDs	14%	20%	See Note #2
StorageTek Automated Cartridge System Library Software	15%	18%	See Note #2
StorageTek Availability Suite Software	15%	18%	See Note #2
StorageTek Enterprise Library Software	24%	34%	See Note #2
StorageTek Library Content Manager Software	15%	18%	See Note #2
StorageTek Linear Tape File System Software	24%	34%	See Note #2
StorageTek T10000D Tape Drive	24%	34%	See Note #2
StorageTek Tape Analytics Software	15%	34%	See Note #2
StorageTek Virtual Library Extension	15%	18%	See Note #2
StorageTek Virtual Storage Manager Features	24%	34%	See Note #2
StorageTek Virtual Storage Manager System (VSM 6)	24%	34%	See Note #2
StorageTek Virtual Storage Manager System (VSM 7)	24%	34%	See Note #2
Sun Fire X4170 M2 Server	14%	20%	See Note #2
Sun Flash Accelerator F160 PCIe Card	24%	34%	See Note #2
Sun Flash Accelerator F320 PCIe Card	24%	34%	See Note #2
Sun Flash Accelerator F640 PCIe Card	24%	34%	See Note #2
Sun Flash Accelerator F80 PCIe Card	24%	34%	See Note #2
Sun Netra Rack Kits	15%	18%	See Note #2
Sun Racks	15%	18%	See Note #2
Sun Ray Server Software	15%	18%	See Note #2
Sun StorageTek SL3000 Modular Library System	24%	34%	See Note #2
Sun StorageTek SL4000 Modular Library System	24%	34%	See Note #2
Sun StorageTek SL4000 Modular Library Features	24%	34%	See Note #2
Sun StorageTek SL500 Modular Library System	24%	34%	See Note #2
Sun StorageTek SL8500 Modular Library Features	24%	34%	See Note #2
Sun StorageTek SL8500 Modular Library System	24%	34%	See Note #2
Sun StorageTek T10000B Tape Drive (Open)	24%	34%	See Note #2
Sun StorageTek Virtual Storage Manager System (VSM 4)	24%	34%	See Note #2
Sun StorageTek Virtual Storage Manager System (VSM 5)	24%	34%	See Note #2
Sun ZFS Storage 7320 System	24%	34%	See Note #2
Sun ZFS Storage 7420 System	24%	34%	See Note #2
Sun ZFS Storage System Features	24%	34%	See Note #2
Sun ZFS Storage System Options	24%	34%	See Note #2
Tape Encryption	24%	34%	See Note #2
Tape Library Features	24%	34%	See Note #2
Tape Media	24%	29%	See Note #2
Tape Options	24%	34%	See Note #2
Tuxedo CFSR	15%	18%	See Note #2
Virtual Desktop Infrastructure Software	28%	34%	See Note #2
Zero Data Loss Appliance	15%	15%	See Note #3
Zero Data Loss Appliance Software	15%	15%	See Note #3

B. SOFTWARE PROGRAMS (except for Oracle Hospitality)

Table B-1. Discount Table for Software Programs and First Year of Technical Support

PRODUCT CATEGORY	CUSTOMER DISCOUNT	LIST PRICE	PRICE LIST
Technology	44.59%	See Note #3	Oracle Technology Global Price List
Oracle E-Business Suite (EBS) Applications	44.59%	See Note #3	Oracle E-Business Suite Applications Global Price List
PeopleSoft (PSFT) Applications	44.59%	See Note #3	PeopleSoft Component Global Price List
Siebel Applications	44.59%	See Note #3	Siebel CRM Component Global Price List
Business Intelligence Applications	44.59%	See Note #3	Oracle Business Intelligence Applications Global Price List
Oracle Fusion Applications	44.59%	See Note #3	Oracle Fusion Applications Global Price List
Public Sector Revenue Management Applications	44.59%	See Note #3	Oracle Public Sector Revenue Management Global Price List
Oracle Construction & Engineering	44.59% ¹	See Note #3	Oracle Construction & Engineering Price List
MySQL	44.59%	See Note #3	MySQL Global Price List
JD Edwards	44.59%	See Note #3	JD Edwards Applications Commercial Price List
Oracle Utilities	See Note #4	See Note #3	Oracle Utilities Texas DIR Price List

Table B-2. Discount Table for Software Programs and First Year of Technical Support for Higher Education Institutions

PRODUCT CATEGORY	CUSTOMER DISCOUNT	LIST PRICE	PRICE LIST
Campus Wide Program Licenses	89.93%	See Note #5	See Note #5

C. SERVICES (except for Oracle Hospitality)

Table C-1. Oracle University, Support (Technical Support Renewal, Linux, and Oracle VM), and Managed Cloud Services

SERVICE CATEGORY	CUSTOMER DISCOUNT	LIST PRICE
Oracle University Education/Training Services		
• Instructor Led Training (Oracle Authorized Education Centers Only)	14.36%	See Note #6
• Private Events	24.44%	See Note #6
• Self Study Courses (SSC), Live Virtual Courses (LVC) & Training on Demand (TOD)	29.48%	See Note #6
• Oracle Learning Subscription	29.48%	See Note #6
Renewal of Technical Support	0%	See Note #7
Oracle Linux Support and Oracle VM Support Services	44.59%	See Note #8
Managed Cloud Services	0%	See Note #9

¹ For one year from the effective date of the Contract.

Table C-2. Cloud Services (See Note #10)			
Oracle RightNow Cloud Service – Desktop Discount Schedule (See Note #11)	Hosted Named Seat Month/Hosted Connected Seat Month Band	Hosted Named User/Hosted Connected User Band	CUSTOMER DISCOUNT
	< 300	< 25	2.27%
	300 – 1,200	25 – 100	7.30%
	1,201 – 2,400	101 – 200	11.34%
	2,401 – 9,600	201 – 750	15.37%
	9,601 – 18,000	751 – 1,500	30.48%
	18,000 +	1,501 +	51.64%
Oracle RightNow Cloud Service – Web Services (Session) Discount Schedule (See Note #12)	Sessions – Pooled	Sessions - Monthly	CUSTOMER DISCOUNT
	< 1,000,000	< 82,500	2.27%
	1,000,000 – 2,500,000	82,500 – 205,000	7.30%
	2,500,001 – 5,000,000	205,001 – 415,000	11.34%
	5,000,001 – 10,000,000	415,001 – 830,000	15.37%
	10,000,001 – 15,000,000	830,001 – 1,250,000	30.48%
	15,000,000 +	1,250,001 +	51.64%
Oracle RightNow Cloud Service – Outreach/Feedback (Emails Sent) Discount Schedule (See Note #13)	Emails Sent Pooled	Emails Sent Monthly	CUSTOMER DISCOUNT
	< 750,000	< 62,500	0.25%
	750,000 – 2,000,000	62,500-165,000	27.46%
	2,000,001 – 5,000,000	165,001 – 415,000	42.57%
	5,000,001 – 10,000,000	415,001 – 830,000	53.65%
	10,000,001 – 50,000,000	830,001 – 4,150,000	64.74%
	50,000,001 – 250,000,000	4,150,001 – 20,800,000	72.80%
	250,000,000 +	20,800,001 +	74.81%
Oracle RightNow Cloud Service Software Add-Ons/ Support Add-Ons (See Note #14)	Number of Units		CUSTOMER DISCOUNT
	1 – 3		9.32%
	4 – 10		19.40%
	11 – 20		29.47%
	20 +		39.55%
Oracle Fusion CRM Cloud Service	Number of Users		CUSTOMER DISCOUNT
	< 25		13.35%
	25 – 99		20.40%
	100 – 199		22.42%
	200 – 749		26.45%
	750 – 1,499		42.57%
	1,500 +		63.73%
Oracle Fusion Marketing Cloud Service Volume Blocks (Customer Record Blocks and Email Capacity Blocks) (See Note #15)	Number of Blocks (Three Year Subscription – Standard)		CUSTOMER DISCOUNT
	1 – 10		30.48%
	11 – 30		38.54%
	31 – 80		39.55%
	81 – 200		44.58%
	201 – 400		52.64%

Table C-2. Cloud Services (See Note #10)

	401 – 600	55.67%
	601 +	59.70%
Oracle Fusion Human Capital Management (HCM) Cloud Service, Oracle Fusion Talent Management Cloud Service, Oracle Talent Acquisition Cloud services, Oracle Talent Cloud	CUSTOMER DISCOUNT	PRICE List
	34.51%	See Note#16
Oracle Fusion Enterprise Resource Planning (ERP) Cloud Service (See Note #17)	Transaction bands (based on three-year Fusion ERP Cloud Service contract based off of list prices)	CUSTOMER DISCOUNT
	0 – \$200,000	2.27%
	\$200,001 – \$400,000	4.28%
	\$400,001 – \$600,000	6.30%
	\$600,001 – \$800,000	8.31%
	\$800,001 – \$1,000,000	10.33%
	\$1,000,001 – \$1,500,000	11.34%
	\$1,500,001 – \$2,500,000	13.35%
	\$2,500,001 +	15.37%
Oracle Planning and Budgeting Cloud Service (See Note #18)	Three-Year Contract Value (at List)	CUSTOMER DISCOUNT
	0 – \$100,000	2.27%
	\$100,001 – \$200,000	4.28%
	\$200,001 – \$300,000	6.30%
	\$300,001 – \$400,000	8.31%
	\$400,001 – \$500,000	10.33%
	\$500,001 – \$750,000	11.34%
	\$750,001 – \$1,000,000	13.35%
	\$1,000,001 +	15.37%
Construction & Engineering Discount Schedule for Primavera Unifier and Instantis	Number of Users	CUSTOMER DISCOUNT ²
	0 – 25	0.25%
	26 – 50	4.28%
	51 – 100	9.32%
	101 – 200	14.36%
	201 – 500	24.43%
	501 – 1000	34.51%
	1001 +	39.55%
Social Cloud Base (See Note #19)	Price Measure	CUSTOMER DISCOUNT
Social Cloud, Basic – Production Environment	Monthly	2.27%
Social Cloud, Standard – Production Environment	Monthly	2.27%
Social Cloud, Enterprise – Production Environment	Monthly	2.27%
Social Cloud, Basic – 1000 Messages	Annual	3.27%
Social Cloud, Standard – 1000 Messages	Annual	3.27%
Social Cloud, Enterprise – 1000 Messages	Annual	3.27%

² For one year from the effective date of the Contract.

Table C-3. Oracle Utilities Cloud Services and Technical Cloud Services³ (See Note #20)	Category	Net Monthly Subscription Price
Energy Efficiency Cloud Service - 100 in Customer Count	Oracle Utilities Opower	\$618.42
Peak Management: Behavioral Demand Response Cloud Service -100 in Customer Count	Oracle Utilities Opower	\$348.56
Digital Self Service, Energy Management Cloud Service - 100 in Customer Count	Oracle Utilities Opower	\$70.28
Digital Self Service, All Cloud Service - 100 in Customer Count	Oracle Utilities Opower	\$351.38
Proactive Alerts Cloud Service - 100 in Customer Count	Oracle Utilities Opower	\$23,433.90
Rates Engagement Cloud Service - 100 in Customer Count	Oracle Utilities Opower	\$47.22
Energy Efficiency Product Setup Fee	Oracle Utilities Opower	\$45,627.22
Peak Management Cloud Service Setup Fee	Oracle Utilities Opower	\$77,457.11
Targeted Web Marketing Setup Fee	Oracle Utilities Opower	\$19,119.49
API Cloud Service Setup Fee	Oracle Utilities Opower	\$15,825.93
SSO and Seamless with Embeddable Cloud Service Setup Fee	Oracle Utilities Opower	\$129,300.38
Customer Service Interface Cloud Service Setup Fee	Oracle Utilities Opower	\$46,514.55
Standard Service Bundle Fee	Oracle Utilities Opower	\$123,088.07
Professional Services Estimated Travel and Expense	Oracle Utilities Opower	\$500.00
Opower Customer Billing Integration and Platform Cloud Service Setup Fee	Oracle Utilities Opower	\$186,036.67
AMI Integration and Platform Cloud Service Setup Fee	Oracle Utilities Opower	\$93,011.31
Customer Segmentation Extract Fee	Oracle Utilities Opower	\$11,581.32
Customer Load Profile Archetype Extract Fee	Oracle Utilities Opower	\$14,874.88
Additional Data Feed Setup Fee	Oracle Utilities Opower	\$46,517.37
Standard Welcome Letter Setup Fee	Oracle Utilities Opower	\$15,896.21
Postcard Setup Fee	Oracle Utilities Opower	\$19,426.82
Proactive Alerts Setup Fee (AMI HBAs and WAMIs)	Oracle Utilities Opower	\$91,254.43
Basic Service Bundle Fee	Oracle Utilities Opower	\$76,723.85
Customer Service Interface Cloud Service Setup Fee	Oracle Utilities Opower	\$46,514.55
Digital Self Service - Energy Management Advanced Metering Infrastructure	Oracle Utilities Opower	\$46.89
Premium Service Bundle Fee	Oracle Utilities Opower	\$266,468.63
Standard Promotional Module Fee (HER, eHER, web)	Oracle Utilities Opower	\$4,118.12
Meter to Bill Cloud Services - Adjusted Utilities Device Data Channel (Minimum Quantity 300,000)	Oracle DataRaker	\$202,392.00
Revenue Protection Cloud Services - Adjusted Utilities Device Data Channel (Minimum Quantity 300,000)	Oracle DataRaker	\$134,928.00
Distribution Planning and Operations Cloud Services - Adjusted Utilities Device Data Channel (Minimum Quantity 300,000)	Oracle DataRaker	\$185,526.00
Demand Response and Energy Efficiency Cloud Services - Adjusted Utilities Device Data Channel (Minimum Quantity 300,000)	Oracle DataRaker	\$151,794.00
Lite Analytics Services	Oracle DataRaker	\$89,389.80
Core Analytics Services	Oracle DataRaker	\$178,779.60
Extended Analytics Services	Oracle DataRaker	\$357,559.20
Implementation Service	Oracle DataRaker	\$337,320.00
Professional Services Estimated Travel and Expense	Oracle DataRaker	\$500.00

Table C-4. Cloud Services			
CLOUD SERVICE CATEGORY	CUSTOMER DISCOUNT	LIST PRICE	PRICE LIST
Oracle Eloqua Marketing Cloud Services	4.28%	See Note #21	Oracle Marketing Cloud Global Price List

³ Any reference to "Professional Services" in Table C-3 shall mean "Technical Cloud Services" as defined in the Contract.

Table C-4. Cloud Services			
CLOUD SERVICE CATEGORY	CUSTOMER DISCOUNT	LIST PRICE	PRICE LIST
Responsys Marketing Platform Cloud Services	4.28%	See Note #21	Oracle Marketing Cloud Global Price List
Oracle Platform as a Service and Infrastructure as a Service - Public Cloud	16.37% ⁴	See Note #22	Oracle Cloud Platform as a Service and Infrastructure as a Service - Public Cloud - Global Price List

Table C-5. Oracle Advanced Customer Support ("ACS") Services (See Note #23)						
Year 1	1-30 days	31-60 days	61-99 days	100-150 days	151-199 days	200+ days
Senior ACS Engineer	\$379.75	\$371.13	\$363.46	\$351.99	\$344.36	\$325.22
ACS Engineer	\$316.46	\$309.28	\$302.88	\$293.33	\$286.97	\$271.02
Technical Account Manager I	\$316.46	\$309.28	\$302.88	\$293.33	\$286.97	\$271.02
Year 2	1-30 days	31-60 days	61-99 days	100-150 days	151-199 days	200+ days
Senior ACS Engineer	\$387.35	\$378.55	\$370.73	\$359.03	\$351.24	\$331.72
ACS Engineer	\$322.79	\$315.46	\$308.94	\$299.19	\$292.71	\$276.44
Technical Account Manager I	\$322.79	\$315.46	\$308.94	\$299.19	\$292.71	\$276.44
Year 3	1-30 days	31-60 days	61-99 days	100-150 days	151-199 days	200+ days
Senior ACS Engineer	\$395.09	\$386.12	\$378.14	\$366.21	\$358.27	\$338.36
ACS Engineer	\$329.24	\$321.77	\$315.12	\$305.18	\$298.56	\$281.97
Technical Account Manager I	\$329.24	\$321.77	\$315.12	\$305.18	\$298.56	\$281.97
Year 4	1-30 days	31-60 days	61-99 days	100-150 days	151-199 days	200+ days
Senior ACS Engineer	\$402.99	\$393.85	\$385.71	\$373.53	\$365.43	\$345.12
ACS Engineer	\$335.83	\$328.21	\$321.42	\$311.28	\$304.53	\$287.60
Technical Account Manager I	\$335.83	\$328.21	\$321.42	\$311.28	\$304.53	\$287.60
Year 5	1-30 days	31-60 days	61-99 days	100-150 days	151-199 days	200+ days
Senior ACS Engineer	\$411.05	\$401.72	\$393.42	\$381.01	\$372.74	\$352.03
ACS Engineer	\$342.55	\$334.77	\$327.85	\$317.51	\$310.62	\$293.36
Technical Account Manager I	\$342.55	\$334.77	\$327.85	\$317.51	\$310.62	\$293.36
SERVICE CATEGORY					CUSTOMER DISCOUNT	LIST PRICE
Installation Services, Packaged Services, and other ACS Services not specified elsewhere on this Appendix C					0%	See Note #23

Table C-6. Technical Services and Technical Cloud Services		
TECHNICAL LEVEL ORACLE (See Note #24)	ON PREMISES SOLUTIONS SERVICES	CLOUD SOLUTIONS SERVICES
North American Technical Services Sr. Practice/Tech Director-9	\$297.23	\$247.50
NAC Practice/Tech Director-8	\$297.23	\$247.50
NAC Practice/Tech Manager-7	\$261.91	\$213.46
NAC Senior Principal Technician-6T	\$242.63	\$197.99
NAC Principal-5	\$212.17	\$173.24
NAC Senior-4	\$173.59	\$142.31
NAC Staff-3	\$154.31	\$123.75
NAC Associate -2	\$113.70	\$92.81
Reston Delivery Center ("RDC") Principle-5	\$146.69	\$119.98
RDC Sr-4	\$121.70	\$99.75
RDC Staff-3	\$105.58	\$86.15
RDC Associate-2	\$89.33	\$73.05

⁴ Discount does not apply to Universal Credits or Government part numbers.

Table C-6. Technical Services and Technical Cloud Services		
TECHNICAL LEVEL ORACLE (See Note #24)	ON PREMISES SOLUTIONS SERVICES	CLOUD SOLUTIONS SERVICES
*Global Service Delivery On-Site-9	\$164.97	\$144.08
*Global Service Delivery On-Site-8	\$156.73	\$138.04
*Global Service Delivery On-Site-7	\$123.09	\$110.83
*Global Service Delivery On-Site-6	\$103.29	\$93.70
*Global Service Delivery On-Site-5	\$84.01	\$78.59
*Global Service Delivery On-Site-4	\$71.51	\$68.01
*Global Service Delivery On-Site-3	\$66.18	\$63.48
*Global Service Delivery On-Site-2	\$60.21	\$58.94
Global Service Delivery Remote-9	\$133.49	\$109.28
Global Service Delivery Remote-8	\$125.50	\$102.56
Global Service Delivery Remote-7	\$91.87	\$75.18
Global Service Delivery Remote-6	\$72.02	\$58.84
Global Service Delivery Remote-5	\$52.79	\$43.17
Global Service Delivery Remote-4	\$40.29	\$32.89
Global Service Delivery Remote-3	\$34.96	\$28.64
Global Service Delivery Remote-2	\$29.00	\$23.74

D. HOSPITALITY

Table D-1. Oracle Hospitality Hardware, Software, Cloud Services, Technical Services		
PRODUCT CATEGORY	LIST PRICE	Pricing
Oracle Hospitality Hardware	See Note #25	Oracle Hospitality Texas DIR Pricing
Oracle Hospitality Software	See Note #25	Oracle Hospitality Texas DIR Pricing
Oracle Hospitality Cloud Services	See Note #25	Oracle Hospitality Texas DIR Pricing
Oracle Hospitality Technical Services	See Note #25	Oracle Hospitality Texas DIR Pricing

Note #1: The discounts specified in Table A-1 above apply to hardware (and first year of technical support) and programs (and first year of technical support) that are designated as an item number or product name associated with the Named Product Hierarchies, except for Oracle Hospitality hardware and programs.

Note #2: The appropriate price list is the Systems Hardware and Software Global Price List. This commercial price list will be made available at a web site to be accessible by the Customers. On this price list, Customers can find the item number and the Named Product Hierarchy.

Note #3: The appropriate price list for the software program product categories listed in Table B-1 above are as specified in the "Price List" column in Table B-1. The commercial price lists will be made available at a web site to be accessible by the Customers.

Note #4: The pricing specified in Oracle Utilities Texas DIR Price List is pricing for Customers.

Note #5: The discount specified in Table B-2 are available for Customers who qualify as educational providers under the terms of Oracle's standard Academic Practices policies and are eligible under §2054.003 of the Texas Government

Code ("Higher Education Institutions"). Notwithstanding the existence of separate license pricing terms for educational programs, the terms and conditions of this Contract that Oracle determines to be applicable shall apply to all purchases of Oracle software and associated products offered herein under educational licenses. Higher Education Institutions purchasing under this Contract may acquire licenses on a campus-wide basis, which means licensing all full-time and part-time students, faculty and staff ("Campus Wide Program") in accordance with the following:

(a) **Eligible Programs.** The appropriate price list is the Oracle Technology Global Price List for the following programs:

Oracle Database:

- Standard Edition
- Enterprise Edition
- NoSQL Enterprise Edition

Enterprise Edition Options:

- Multitenant
- Real Application Clusters
- Partitioning
- Active Data Guard
- Real Application Testing
- Advanced Compression
- Advanced Security Option
- Label Security
- Database Vault
- OLAP
- Advanced Analytics

Enterprise Management Options:

- Diagnostics Pack
- Tuning Pack
- Lifecycle Management Pack
- Data Masking Pack
- Test Data Management pack
- Cloud Management Pack

Application Server:

- Weblogic Server Standard

- Weblogic Server Enterprise Edition
- Weblogic Suite
- Internet Application Server Standard
- Internet Application Server Enterprise
- SOA Suite for Middleware

Application Server Enterprise Management Options:

- Weblogic Management pack
- SOA Management pack
- Management pack for GoldenGate

Data Integration:

- Data Integrator Enterprise
- GoldenGate
- GoldenGate for Non-Oracle Database

Other Products:

- Webcenter Suite Plus
- Webcenter Portal
- Management Pack for Webcenter
- Identity and Access Management Suite
- Identity Governance Suite
- Directory Services Plus
- Access Management Suite Plus
- Management pack for Identity Mgmt
- Real User Experience Insight

(b) **Internet Access.** Higher Education Institutions may allow an unlimited number of internet users to access any of the Campus Wide Program licenses licensed under an Oracle Order Form, provided the access is for viewing, querying, or adding data associated with the Higher Education Institution's administrative, teaching, research or community service functions. Higher Education Institutions may charge a fee for such internet access provided the fee is designed to only reimburse the Higher Education Institution for its costs incurred in developing and administering the Higher Education Institution's business program.

(c) **OAI and WDP Membership.** As of the effective date of an order placed under this Contract, teaching departments at the Higher Education Institution may participate in the Oracle Academic Initiative (OAI) and/or the Oracle Workforce Development Program (WDP) or successor programs that may replace OAI/WDP. The OAI/WDP membership fee will be waived for any department that elects to incorporate Oracle programs into its classroom teaching. Teaching departments may apply for the free membership at <http://oai.oracle.com> or <http://workforce.oracle.com>. Once the teaching department is established as an OAI/WDP member, the department will be licensed to use the Programs available under OAI/WDP for the purposes set forth in the applicable agreement.

(d) **User Minimums.** The user minimum tables in the Oracle Licensing Definitions and Rules do not apply to Campus Wide Program licenses.

(e) Campus Wide Program licenses may not be used for non-medical school functions of an associated medical center or university hospital (e.g., patient management and billing).

(f) On the yearly anniversary of the effective date of an order, you must report any additional full-time and part-time students, faculty and staff to Oracle and ensure your license quantity is sufficient to cover the additional population in order to extend the rights listed above (Internet Access, OAI and WDP Membership, User Minimums) for a subsequent year.

Note #6: Pricing for Oracle University products and services is subject to the Oracle University Price List in effect at the time the Customer places the student registration for the training. Oracle University's Price List is posted at

<http://education.oracle.com>. These discounts may not be used in conjunction with any other discounts or special promotions offered by Oracle University.

Note #7: Customers may renew technical support services (SULS or Premier Support for Systems as appropriate) under this Contract. For first and second renewal years of technical support that commences during the term of the Contract, if Customer renews technical support for the same number of licenses for the same programs and/or the same systems for the same configurations, the annual technical support fees will not increase by more than 4% over the prior year's fees. If the Customer's order is fulfilled by a Reseller, the annual fee for SULS for the first renewal year will be the price quoted to the Customer by the Reseller; and the annual fee for SULS for the second renewal year will not increase by more than 4% over the prior year's fees. Oracle technical support services (including first year and all subsequent years) are provided under Vendor's applicable technical support services policies in effect at the time the services are provided. Customer agrees to cooperate with Vendor and provide the access, resources, materials, personnel, information, and consents that Vendor may require in order to perform the technical support services. The technical support services policies are incorporated in this Contract and are subject to change at Vendor's discretion; however, Vendor will not materially reduce the level of services provided during the period for which fees for the applicable technical support services have been ordered. Customer should review the applicable technical support services policies prior to executing an order for the applicable services. Customer may access the current versions of the technical support services policies at <http://oracle.com/contracts>. Technical support is effective upon the effective date of the order unless otherwise stated in the Customer's order.

Note #8: The appropriate price list is the Oracle Linux Support and Oracle VM Support Global Price List. This commercial price list will be made available at a web site to be accessible by the Customers. For the avoidance of any doubt, any Oracle Linux or Oracle VM software license products are expressly excluded from this Contract; therefore, even if on the Oracle Linux Support and Oracle VM Support Global Price List, may not be purchased under this Contract.

Note #9: The appropriate price list is the Oracle Managed Cloud Services Global Price List. This commercial price list will be made available at a web site to be accessible by the Customers.

Note #10: The appropriate price lists for Table C-2 above are the Oracle Taleo Cloud Service Global Price List, Oracle RightNow Global Price List, Oracle Fusion Cloud Service Global Price List, Oracle Construction & Engineering Global Price List, and Oracle Oracle Marketing Cloud Global Price List (for Social Cloud). These commercial price lists will be made available at a web site to be accessible by the Customers. The discounts specified in Table C-2 only apply to direct purchases through Oracle, and do not apply to any indirect purchases through any Reseller.

For the avoidance of any doubt, the discounts for Cloud Services do not apply to the "Technical Cloud Services Pricing" pages of any of the price lists. Any reference to "Professional Services" or "Consulting Services" in these price lists shall mean "Technical Services" or "Technical Cloud Services" as defined in the Contract.

Note #11: The appropriate price list is the Oracle RightNow Global Price List. Discounts thresholds are established on a per-subscription-service basis.

Note #12: The appropriate price list is the Oracle RightNow Global Price List. Sessions are sold in blocks of 100 Sessions, but tiers below are based on each individual Session and not blocks of 100 Sessions.

Note #13: The appropriate price list is the Oracle RightNow Global Price List. The Emails are sold in blocks of 100 Emails, but tiers are based on each individual Email and not blocks of 100 Emails.

Note #14: The appropriate price list is the Oracle RightNow Global Price List. The discounts are not applicable to the Additional Test Environment. Each Oracle RightNow offering under the categories listed in Section C, Table 2 must be discounted separately as its own individual number of units (i.e., cannot aggregate multiple Oracle RightNow offerings under these categories to create a higher level of units and thus a higher discount). Each discount must be based on the number of units. Units are defined as the following metrics: Certificate, Community Instance, Connection, Each, External Interface, Instance, Interface, and 20,000 Documents Indexed. Units cannot be combined across different metrics.

Note #15: The appropriate price list is the Oracle Fusion Cloud Service Global Price List. The number of customer record blocks and email capacity blocks cannot be combined to get to a higher user band. Each must be evaluated separately to determine the discount.

Note #16: The appropriate price lists are the Oracle Fusion Cloud Service Global Price List and the Oracle Taleo Cloud Service Global Price List. This discount schedule also applies to "Oracle Taleo Community Connect Cloud Service" and "Oracle Social Sourcing Cloud Service", which were formerly SelectMinds.

Note #17: Oracle Fusion Enterprise Performance Management Cloud Service discount schedule applies only to the Fusion Enterprise Performance Management Cloud Service subscription services listed on the Oracle Fusion Cloud Service Global Price List. Transaction bands are based on a three-year Fusion Enterprise Performance Management Cloud Service contract based off of list prices. Transaction bands should only include Fusion Enterprise Performance Management Cloud Service subscription services.

Note #18: The appropriate price list is the Oracle Fusion Cloud Service Global Price List. All subscription services noted are purchased in units of 1,000 Records (e.g., the per "Hosted 1,000 Records" metric), but tiers are based on each individual Records and not blocks of 1,000 Records.

Note #19: The appropriate price list is the Oracle Marketing Cloud Global Price List.

Note #20: Please check with Order Fulfiller regarding any inclusions, restrictions, purchase minimums, or prerequisites.

Note #21: The appropriate price lists for the Cloud Service categories listed at the end of Table C-3 above are as specified in the "Price List" column for such Cloud Service categories. The commercial price lists will be made available at a web site to be accessible by the Customers.

Note #22: The appropriate price list for the Oracle Cloud Platform as a Service and Infrastructure as a Service - Public Cloud. The discounts do not apply to Universal Credits part numbers, except to the extent agreed upon by the parties in the applicable Order Form "Pre-Paid Subscription" or "Prepaid" part numbers may not be purchased unless and except to the extent agreed upon by the parties in the applicable Order Form. The commercial price list will be made available at a web site to be accessible by the Customers. Any reference to "Professional Services" or "Consulting Services" in these price lists shall mean "Technical Services" or "Technical Cloud Services" as defined in the Contract.

Note #23: To be eligible to purchase installation services, packaged services, or other ACS services, Customers must be current on technical support (Software Update License and Support, or "SULS") for their licensed programs, current on technical support (Premier Support for Systems) for hardware, and all supported software environments must comply with current Oracle Certification Matrices.

Note #24: The Technical Level Oracle Technical services denoted with an asterisk (*) in the table in section C, Table 3 require a minimum of 2 months of on-site services. Any reference to "Professional Services" or "Consulting Services" in any of the price lists shall mean "Technical Services" or "Technical Cloud Services" as defined in the Contract.

Note #25: The pricing specified in Oracle Hospitality Texas DIR Pricing is pricing for Customers. Please check with Order Fulfiller regarding any inclusions, restrictions, purchase minimums, or prerequisites.



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - ☐ Section 2 c. - Yes
 - ☐ Section 4 - Affirmation
 - ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - ☐ Section 2 c. - No
 - ☐ Section 2 d. - Yes
 - ☐ Section 4 - Affirmation
 - ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - ☐ Section 2 c. - No
 - ☐ Section 2 d. - No
 - ☐ Section 4 - Affirmation
 - ☐ GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - ☐ Section 3 - Self Performing Justification
 - ☐ Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders' contracts,
- 32.9 percent for all special trade construction contracts,
- 23.7 percent for professional services contracts,
- 26.0 percent for all other services contracts, and
- 21.1 percent for commodities contracts.

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract* in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: Oracle America, Inc. State of Texas VID #: 1942805249202
Point of Contact: Matt Brown Phone #: 513.253.7336
E-mail Address: matt.brown@oracle.com Fax #: 513.253.7336
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No
- c. Requisition #: DIR-TSO-TMP-415 Bid Open Date: December 7, 2017
(mm/dd/yyyy)

Enter your company's name here: Oracle America, Inc.Requisition #: DIR-TSO-TMP-415**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS**

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including **contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

☒ - Yes, I will be subcontracting portions of the contract. (If Yes, complete Item b of this SECTION and continue to Item c of this SECTION.)

☐ - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract</u> * in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> * in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1	Order Fulfillers (not Subcontractors)—See Attachment A-1	%	44.005% %	.005 %
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
	Aggregate percentages of the contract expected to be subcontracted:	%	44.005 %	.005 %

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

☐ - Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

☒ - No (If No, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a continuous contract* in place with for more than five (5) years, meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

☒ - Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

☐ - No (If No, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: Oracle America, Inc.Requisition #: DIR-TSO-TMP-415**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)**

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: Oracle America, Inc.Requisition #: DIR-TSO-TMP-415

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below explain how your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Brent Mitch (I(F b.26, 2018)

Signature on File

Signature

Brent Mitchell

Printed Name

Group Vice President, State and Local

Title

02/12/2018Date
(mm/dd/yyyy)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

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Requisition #: DIR-TSO-TMP-415

SECTION A-1: SUBCONTRACTING OPPORTUNITY

Item Number: 1 Description: Order Fulfillers (not Subcontractors) — See Attachment A-1

[illegible]

Page 1 of 1
(Attachment A)

HSP Good Faith Effort - Method B (Attachment B)

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Enter your company's name here: Oracle America, Inc.

Requisition #: DIR-TSO-TMP-415

IMPORTANT: If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

☐ - Yes (If Yes, continue to SECTION B-4.)

☐ - No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/toasscmblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID (Do not enter Social Security Numbers.)	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.
- List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: Oracle America, Inc.

Requisition #: DIR-TSO-TMP-415

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name:	Oracle America, Inc.	State of Texas VID #:	1942805249202
Point-of-Contact:	Matt Brown	Phone #:	513.253.7336
E-mail Address:	matt.brown@oracle.com	Fax #:	513.253.7336

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name:			
Point-of-Contact:		Phone #:	
Requisition #:	DIR-TSO-TMP-415	Bid Open Date:	December 7, 2017 <small>(mm/dd/yyyy)</small>

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION**1. Potential Subcontractor's Bid Response Due Date:**

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____.
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications: ☐ - Not Applicable

4. Bonding/Insurance Requirements: ☐ - Not Applicable

5. Location to review plans/specifications: ☐ - Not Applicable

ATTACHMENT A-1

The Order Fulfillers listed above are not subcontractors to Oracle, but are qualified to be Oracle Resellers under DIR-TSO-TMP-415. The "Approximate Dollar Amount" and Expected Percentage of Contract" included in the table in Section A-2 above are only good faith estimates of the Approximate Dollar Amount and Expected Percentage of Contract that the Resellers expect to sell over the next twelve months under DIR-TSO-TMP-415. Statements in this HSP relating to Oracle's expectations, beliefs, intentions and prospects, including estimates on future sales are "forward-looking statements" and are subject to material risks and uncertainties. Many factors could affect our current expectations and our actual results, and could cause actual results to differ materially, Economic, political and market conditions, among various other factors including factors affecting each individual Reseller could cause actual results to differ materially from expectations, and could adversely affect our business and any future transactions.

GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Jim Howard 512-974-2031	PM Name/Phone	Kamran Karimii 512-974-2877
Sponsor/User Dept.	Communication Technology management	Sponsor Name/Phone	Kamran Karimii 512-974-2877
Solicitation No	28333	Project Name	Oracle Universal License
Contract Amount	\$10,979,653	Ad Date (if applicable)	Advertisement Date
Procurement Type			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – Design Build <input type="checkbox"/> AD – Design Build Op Maint <input type="checkbox"/> AD – JOC <input type="checkbox"/> IFB – Construction <input type="checkbox"/> IFB – IDIQ <input type="checkbox"/> PS – Project Specific <input type="checkbox"/> PS – Rotation List <input type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Commodities/Goods <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Critical Business Need <input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> Ratification <input type="checkbox"/> Sole Source*			
Provide Project Description**			
Provide unlimited software licensing, software and maintenance and 500 hours professional services. See Attached DIR (DIR-TSO-4158). HUB requirements attached.			
Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.			
No.			
List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)			
.92045- NONSTD Software-Maintenance/support/licenses			
Jim Howard		7/30/2018	
Buyer Confirmation		Date	

* Sole Source must include Certificate of Exemption

**Project Description not required for Sole Source

FOR SMBR USE ONLY			
Date Received	7/31/2018	Date Assigned to BDC	8/1/2018
In accordance with Chapter2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:			
<input type="checkbox"/> Goals	% MBE	% WBE	
<input type="checkbox"/> Subgoals	% African American	% Hispanic	
	% Asian/Native American	% WBE	
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals	

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

- | | |
|--------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Insufficient availability of M/WBEs | <input type="checkbox"/> No availability of M/WBEs |
| <input type="checkbox"/> Insufficient subcontracting opportunities | <input checked="" type="checkbox"/> No subcontracting opportunities |
| <input type="checkbox"/> Sufficient availability of M/WBEs | <input type="checkbox"/> Sufficient subcontracting opportunities |
| <input type="checkbox"/> Sole Source | <input type="checkbox"/> Other |

If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

N/A

Subcontracting Opportunities Identified

N/A

Tracy Burkhalter

SMBR Staff

Signature/ Date

Tracy Burkhalter

8-1-18

SMBR Director or Designee

Date

8-2-18

Returned to/ Date: