



## GENERAL TERMS- Public Sector

Oracle General Terms Reference:

US-GMA-2796822

These General Terms ("General Terms") are between Oracle America, Inc. ("PROVIDER" or "Oracle") and Clark County, Nevada ("COUNTY" or "You"). To place orders subject to these General Terms, at least one Schedule (as defined below) must be incorporated into these General Terms. If a term is relevant only to a specific Schedule, that term will apply only to that Schedule if and/or when that Schedule is incorporated into these General Terms.

All public entities located within the State of Nevada (the "**State**"), including, but not limited to, departments, institutions, institutions of higher education, agencies, legislative, executive or judicial bodies, governing bodies (as the term "governing bodies" is defined in Nev. Rev. Stat. § 332.025), offices, authorities, posts, committees, institutions, boards, or political subdivisions created by law to perform governmental duties of the State, counties, cities, towns and political subdivisions (each such entity, an "**Authorized Contract User**") may also order products and services from PROVIDER in accordance with the terms and conditions of this Master Agreement. By placing an order under this Master Agreement, each Authorized Contract User agrees to be bound by the terms and conditions of the applicable ordering document and this Master Agreement and, for the purposes of such order, "COUNTY" and "You" as used in this Master Agreement shall be deemed to refer to such Authorized Contract User, unless indicated otherwise herein. Each Authorized Contract User shall be responsible for its breach(es) of such terms and conditions. "**Parties**" shall mean COUNTY and PROVIDER, and each of us may be referred to individually as a "party".

**The terms of this Master Agreement differ from Oracle's standard terms.**

### 1. DEFINITIONS

1.1 "**Hardware**" refers to the computer equipment, including components, options and spare parts.

1.2 "**Integrated Software**" refers to any software or programmable code that is (a) embedded or integrated in the Hardware and enables the functionality of the Hardware or (b) specifically provided to COUNTY by PROVIDER under Schedule H and specifically listed (i) in accompanying documentation, (ii) on a PROVIDER webpage or (iii) via a mechanism that facilitates installation for use with COUNTY'S Hardware. Integrated Software does not include and COUNTY does not have rights to (a) code or functionality for diagnostic, maintenance, repair or technical support services; or (b) separately licensed applications, operating systems, development tools, or system management software or other code that is separately licensed by PROVIDER. For specific Hardware, Integrated Software includes Integrated Software Options (as defined in Schedule H) separately ordered.

1.3 "**Master Agreement**" refers to these General Terms (including any amendments thereto) and all Schedule(s) incorporated into the Master Agreement (including any amendments to those incorporated Schedule(s)). The Master Agreement governs COUNTY'S use of the Products and Service Offerings ordered from PROVIDER or an authorized reseller.

1.4 "**Operating System**" refers to the software that manages Hardware for Programs and other software.

1.5 "**Products**" refers to Programs, Hardware, Integrated Software and Operating System.

1.6 "**Programs**" refers to (a) the software owned or distributed by PROVIDER that COUNTY has ordered under Schedule P, (b) Program Documentation and (c) any Program updates acquired through technical support. Programs do not include Integrated Software or any Operating System or any software release prior to general availability (e.g., beta releases).

1.7 "**Program Documentation**" refers to the Program user manual and Program installation manuals. Program Documentation may be delivered with the Programs. COUNTY may access the documentation online at <http://oracle.com/documentation>.

1.8 "**Schedule**" refers to all Oracle Schedules to these General Terms as identified in Section 2.

1.9 "**Separate Terms**" refers to separate license terms that are specified in the Program Documentation, readmes or notice files and that apply to Separately Licensed Third Party Technology.

1.10 "**Separately Licensed Third Party Technology**" refers to third party technology that is licensed under Separate Terms and not under the terms of the Master Agreement.

1.11 "**Service Offerings**" refers to technical support, education, hosted/outsourcing services, cloud services, consulting, advanced customer support services, or other services which COUNTY has ordered. Such Service Offerings are further described in the applicable Schedule.

1.12 “You” or “COUNTY” refers to the entity that has executed these General Terms.

## 2. MASTER AGREEMENT TERM AND APPLICABLE SCHEDULES

Orders may be placed under the Master Agreement from the Effective Date (indicated below in Section 17) through June 1, 2023 with the option to renew for four (4) one (1) year periods. Such renewals will be evidenced by agreement in writing by both parties. As of the Effective Date, the following Schedules are incorporated into the Master Agreement: **Schedule C – Cloud Services, Schedule H – Hardware, Schedule LVM – Oracle Linux and Oracle VM Service Offerings, Schedule P – Program, and Schedule S – Services.**

The Schedules set forth terms and conditions that apply specifically to certain types of PROVIDER offerings which may be different than, or in addition to, these General Terms.

## 3. SEGMENTATION

The purchase of any Products and related Service Offerings or other Service Offerings are all separate offers and separate from any other order for any Products and related Service Offerings or other Service Offerings COUNTY may receive or has received from PROVIDER. COUNTY understands that COUNTY may purchase any Products and related Service Offerings or other Service Offerings independently of any other Products or Service Offerings. COUNTY'S obligation to pay for (a) any Products and related Service Offerings is not contingent on performance of any other Service Offerings or delivery of any other Products or (b) other Service Offerings is not contingent on delivery of any Products or performance of any additional/other Service Offerings. COUNTY acknowledges that COUNTY has entered into the purchase without reliance on any financing or leasing arrangement with PROVIDER or its affiliate.

## 4. OWNERSHIP

PROVIDER or its licensors retain all ownership and intellectual property rights to the Programs, Operating System, Integrated Software and anything developed or delivered under the Master Agreement.

## 5. INDEMNIFICATION

5.1 To the extent not prohibited by law and subject to sections 5.5, 5.6 and 5.7 below, if a third party makes a claim against either COUNTY or PROVIDER (“Recipient” which may refer to COUNTY or PROVIDER depending upon which party received the Material), that any information, design, specification, instruction, software, data, hardware, or material (collectively, “Material”) furnished by either COUNTY or PROVIDER (“Provider” which may refer to COUNTY or PROVIDER depending on which party provided the Material) and used by the Recipient infringes the third party’s intellectual property rights, the Provider, at the Provider’s sole cost and expense, will defend the Recipient against the claim and indemnify the Recipient from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by the Provider, if the Recipient does the following:

- a. notifies the Provider promptly in writing, not later than thirty (30) days after the Recipient receives notice of the claim (or sooner if required by applicable law);
- b. gives the Provider sole control of the defense and any settlement negotiations, to the extent permitted by law; and
- c. gives the Provider the information, authority and assistance the Provider needs to defend against or settle the claim.

5.2 If the Provider believes or it is determined that any of the Material may have violated a third party’s intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for, and require return of, the applicable Material and refund any fees the Recipient may have paid to the other party for it and, if PROVIDER is the Provider of an infringing Program, any unused, prepaid technical support fees COUNTY has paid to PROVIDER for the license of the infringing Program. If such return materially affects PROVIDER’S ability to meet its obligations under the relevant order, then PROVIDER may, at its option and upon thirty (30) days prior written notice, terminate the order.

5.3 Notwithstanding the provisions of section 5.2 and with respect to hardware only, if the Provider believes or it is determined that the hardware (or portion thereof) may have violated a third party’s intellectual property rights, the Provider may choose to either replace or modify the hardware (or portion thereof) to be non-infringing (while substantially preserving its utility or functionality) or obtain a right to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may remove the applicable hardware (or portion thereof) and refund the net book value and, if PROVIDER is the Provider of infringing Hardware, any unused, prepaid technical support fees COUNTY has paid to PROVIDER for the Hardware.

5.4 In the event that the Material is Separately Licensed Third Party Technology and the associated Separate Terms do not allow termination of the license, in lieu of ending the license for the Material, PROVIDER may end the license for, and require return of, the Program associated with that Separately Licensed Third Party Technology and shall refund any Program license fees COUNTY may have paid to PROVIDER for the Program license and any unused, prepaid technical support fees COUNTY has paid to PROVIDER for the Program license.

5.5 Provided COUNTY is a current subscriber to Oracle technical support services for the Operating System (e.g., Oracle Premier Support for Systems, Oracle Premier Support for Operating Systems or Oracle Linux Premier Support), then for the period of time for which COUNTY was a subscriber to the applicable Oracle technical support services (a) the phrase "Material" above in section 5.1 shall include the Operating System and the Integrated Software and any Integrated Software Options that COUNTY has licensed and (b) the phrase "Program(s)" in this section 5 is replaced by the phrase "Program(s) or the Operating System or Integrated Software or Integrated Software Options (as applicable)" (i.e., PROVIDER will not indemnify COUNTY for COUNTY'S use of the Operating System and/or Integrated Software and/or Integrated Software Options when COUNTY was not a subscriber to the applicable Oracle technical support services). Notwithstanding the foregoing, with respect solely to the Linux operating system, PROVIDER will not indemnify COUNTY for Materials that are not part of the Oracle Linux covered files as defined at <http://www.oracle.com/us/support/library/enterprise-linux-indemnification-069347.pdf>.

5.6 The Provider will not indemnify the Recipient if the Recipient alters Material or uses it outside the scope of use identified in the Provider's user documentation or if the Recipient uses a version of Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of Material which was provided to the Recipient, or if the Recipient continues to use the applicable Material after the end of the license to use that Material. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by the Provider. PROVIDER will not indemnify COUNTY for any portion of an infringement claim that is based upon the combination of any Material with any products or services not provided by PROVIDER. Solely with respect to Separately Licensed Third Party Technology that is part of or is required to use a Program and that is used: (a) in unmodified form; (b) as part of or as required to use a Program; and (c) in accordance with the license grant for the relevant Program and all other terms and conditions of the Master Agreement, PROVIDER will indemnify COUNTY for infringement claims for Separately Licensed Third Party Technology to the same extent as PROVIDER is required to provide infringement indemnification for the Program under the terms of the Master Agreement. PROVIDER will not indemnify COUNTY for infringement caused by COUNTY'S actions against any third party if the Program(s) as delivered to COUNTY and used in accordance with the terms of the Master Agreement would not otherwise infringe any third party intellectual property rights. PROVIDER will not indemnify COUNTY for any intellectual property infringement claim(s) known to COUNTY at the time license rights are obtained.

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

For the avoidance of doubt, in Section 5 above, "PROVIDER" (in all caps) refers to Oracle and "Provider" refers to COUNTY or Oracle depending on which party provided the Material.

## **6. TERMINATION**

6.1 If either party breaches a material term of the Master Agreement and fails to correct the breach within thirty (30) days of written specification of the breach, then the breaching party is in default and the non-breaching party may terminate the Master Agreement. If PROVIDER terminates the Master Agreement as specified in the preceding sentence, COUNTY must pay within thirty (30) days all amounts which have accrued prior to such termination, as well as all sums remaining unpaid for Products ordered and/or Service Offerings received under the Master Agreement plus related taxes and expenses. Clark County is a political subdivision of the State of Nevada and under the provisions of Nevada Revised Statutes 372.325 is exempt from payment of Sales or Use Tax.

Except for nonpayment of fees, the non-breaching party may agree in its sole discretion to extend the thirty (30) day period for so long as the breaching party continues reasonable efforts to cure the breach. COUNTY agrees that if COUNTY is in default under the Master Agreement, COUNTY may not use those Products or Service Offerings ordered.

6.2 COUNTY may terminate this Master Agreement at any time without cause by giving PROVIDER thirty (30) days prior written notice of such termination. If COUNTY ends this Master Agreement as specified in the preceding sentence, COUNTY agrees COUNTY must pay within thirty (30) days all amounts which have accrued prior to the end of this Master Agreement, as well as all sums remaining unpaid for Products ordered and/or Service Offerings received under this Master Agreement plus applicable related taxes and expenses (if any).

6.3 If COUNTY has used a contract with PROVIDER or an affiliate of PROVIDER to pay for the fees due under an order and COUNTY is in default under that contract, COUNTY may not use the Products and/or Service Offerings that are subject to such contract.

6.4 Provisions that survive termination or expiration are those relating to limitation of liability, infringement indemnity, payment and others which by their nature are intended to survive.

6.5 Non-Appropriations. The COUNTY'S obligation shall cease immediately without penalty or future payment being required if, in any fiscal year, the Board of County Commissioners does not approve to appropriate funds for purchase; provided, however, that: (1) with each executed order, the COUNTY must have provided both of the following: (a) a signed ordering document referencing this Master Agreement, and (b) a purchase order; and (2) the COUNTY'S signature on an ordering document referencing this Master Agreement and issuance of a purchase order by the COUNTY shall signify to PROVIDER that all funds for the order have been fully appropriated and are available and no longer subject to any appropriations contingency. Notwithstanding the foregoing, the COUNTY agrees to pay for all programs ordered and Services performed by PROVIDER prior to PROVIDER'S receipt of the COUNTY'S notice of non-appropriations.

## 7. FEES AND TAXES; PRICING, INVOICING AND PAYMENT OBLIGATION

7.1 All fees payable to PROVIDER are due within thirty (30) calendar days from the invoice date. COUNTY agrees to pay any sales, value-added or other similar taxes imposed by applicable law that PROVIDER must pay based on the Products and/or Service Offerings COUNTY ordered, except for taxes based on PROVIDER'S income. Clark County is a political subdivision of the State of Nevada and under the provisions of Nevada Revised Statutes 372.325 is exempt from payment of Sales or Use Tax. Reimbursement of expenses related to the provision of any Service Offering, if any, will be addressed in the relevant ordering document and/or statement of work for such services.

7.2 COUNTY understands that COUNTY may receive multiple invoices for the Products and Service Offerings COUNTY ordered. Invoices will be submitted to COUNTY pursuant to Oracle's Invoicing Standards Policy, which may be accessed at <http://oracle.com/contracts>.

## 8. NONDISCLOSURE

8.1 By virtue of the Master Agreement, the parties may have access to information that is confidential to one another ("**Confidential Information**"). Each party agrees to disclose only information that is required for the performance of obligations under the Master Agreement. Confidential Information shall be limited to all information clearly identified as confidential at the time of disclosure.

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

8.3 Subject to applicable law, including Nevada law, each party agrees not to disclose each other's Confidential Information to any third party other than those set forth in the following sentence for a period of three years from the date of the disclosing party's disclosure of the Confidential Information to the receiving party. Each party may disclose Confidential Information only to those employees or agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than under the Master Agreement. Nothing shall prevent either party from disclosing the terms or pricing under the Master Agreement or orders submitted under the Master Agreement in any legal proceeding arising from or in connection with the Master Agreement or disclosing the Confidential Information to a governmental entity as required by federal and Nevada law.

8.4 To the extent COUNTY provides personal information to PROVIDER as part of any Service Offerings COUNTY has ordered under the Master Agreement, PROVIDER will comply with:

- a. the relevant Oracle privacy policies applicable to the Service Offerings, available at <http://www.oracle.com/us/legal/privacy/overview/index.html>;
- b. the applicable administrative, physical, technical and other safeguards, and other applicable aspects of system and content management, available at <http://www.oracle.com/us/corporate/contracts/>; and
- c. the applicable version of the Data Processing Agreement for Oracle Services (the "Data Processing Agreement"). The version of the Data Processing Agreement applicable to COUNTY'S order is available at <https://www.oracle.com/corporate/contracts/cloud-services/contracts.html#data-processing> and is incorporated herein by reference. The Data Processing Agreement does not apply to education services. Oracle Data Cloud services under Schedule D was not contemplated under this Master Agreement. COUNTY'S order for Service Offerings may also contain additional or more specific privacy terms.

## 9. ENTIRE AGREEMENT

9.1 COUNTY agrees that the Master Agreement and the information which is incorporated into the Master Agreement by written reference (including reference to information contained in a URL or referenced policy), together with the applicable order, are the complete agreement for the Products and/or Service Offerings ordered by COUNTY and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such Products and/or Service Offerings.

9.2 It is expressly agreed that the terms of the Master Agreement and any Oracle order shall supersede the terms in any purchase order, procurement internet portal or any other similar non-Oracle document and no terms included in any such purchase order, portal or other non-Oracle document shall apply to the Products and/or Service Offerings ordered. In the event of inconsistencies between the terms of any Schedule and these General Terms, the Schedule shall take precedence. In the event of any inconsistencies between the terms of an order and the Master Agreement, the order shall take precedence. The Master Agreement and orders may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online through the Oracle Store by authorized representatives of COUNTY and of PROVIDER. Any notice required under the Master Agreement shall be provided to the other party in writing.

## 10. LIMITATION OF LIABILITY



NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE. PROVIDER'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THE MASTER AGREEMENT OR COUNTY'S ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES PAID AND PAYABLE TO PROVIDER UNDER THE SCHEDULE GIVING RISE TO THE LIABILITY, AND IF SUCH DAMAGES RESULT FROM COUNTY'S USE OF PRODUCTS OR SERVICE OFFERINGS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES PAID AND PAYABLE TO PROVIDER FOR THE DEFICIENT PRODUCT OR SERVICE OFFERINGS GIVING RISE TO THE LIABILITY.

NOTWITHSTANDING THE FOREGOING, PROVIDER SHALL BE LIABLE TO COUNTY FOR BODILY INJURY (INCLUDING WRONGFUL DEATH) AND/OR TANGIBLE PERSONAL PROPERTY DAMAGE PROXIMATELY CAUSED BY THE GROSSLY NEGLIGENT OR INTENTIONALLY WRONGFUL ACTIONS OR OMISSIONS OF PROVIDER, A PERSON EMPLOYED BY PROVIDER (I.E., AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR), OR BY PROVIDER'S AGENTS, CONSULTANTS OR OTHER INDIVIDUALS ACTING ON PROVIDER'S BEHALF, WHILE PERFORMING SERVICES ON COUNTY'S PREMISES UNDER THE MASTER AGREEMENT, IF SUCH ACTIONS OR OMISSIONS WERE NOT CAUSED BY COUNTY OR ANY THIRD PARTY. AS USED ABOVE, THE TERM "TANGIBLE PERSONAL PROPERTY" SHALL NOT INCLUDE SOFTWARE, DOCUMENTATION, DATA OR DATA FILES.

## 11. EXPORT

Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Products. COUNTY agrees that such export laws govern COUNTY'S use of the Products (including technical data) and any Service Offerings deliverables provided under the Master Agreement, and COUNTY agrees to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). COUNTY agrees that no data, information, Product and/or materials resulting from Service Offerings (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

## 12. FORCE MAJEURE

Neither party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; pandemic, electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export, import or other license); other event outside the reasonable control and not involving any fault or negligence of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than thirty (30) days, either of us may cancel unperformed Service Offerings and affected orders upon written notice. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or COUNTY'S obligation to pay for Products and Service Offerings ordered or delivered.

## 13. GOVERNING LAW AND JURISDICTION

The Master Agreement is governed by the laws of the State of Nevada.

## 14. NOTICE

If COUNTY has a dispute with PROVIDER or if COUNTY wishes to provide a notice under the Indemnification section of these General Terms, or if COUNTY becomes subject to insolvency or other similar legal proceedings, COUNTY will promptly send written notice to: Oracle America, Inc., 500 Oracle Parkway, Redwood City, California, United States 94065, Attention: General Counsel, Legal Department.

## 15. ASSIGNMENT

COUNTY may not assign the Master Agreement or give or transfer the Programs, Operating System, Integrated Software and/or any Service Offerings or an interest in them to another individual or entity. If COUNTY grants a security interest in the Programs, Operating System, Integrated Software and/or any Service Offerings deliverables, the secured party has no right to use or transfer the Programs, Operating System, Integrated Software and/or any Service Offerings deliverables, and if COUNTY decides to finance COUNTY'S acquisition of any Products and/or any Service Offerings, COUNTY will follow PROVIDER'S policies regarding financing which are at <http://oracle.com/contracts>. The foregoing shall not be construed to limit the rights COUNTY may otherwise have with respect to the Linux operating system, third party technology or Separately Licensed Third Party Technology licensed under open source or similar license terms. Except in the event of a merger, consolidation, acquisition, internal restructuring, or sale of all or substantially all of the assets of PROVIDER, PROVIDER may not assign this Master Agreement without the COUNTY'S prior written consent.

## 16. OTHER

16.1 PROVIDER is an independent contractor and each party agrees that no partnership, joint venture, or agency relationship exists between us. Each party will be responsible for paying our own employees, including employment related taxes and insurance.

16.2 If any term of the Master Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of the Master Agreement.

16.3 Except for actions for nonpayment or breach of PROVIDER'S proprietary rights, no action, regardless of form, arising out of or relating to the Master Agreement may be brought by either party more than two years after the cause of action has accrued.

16.4 Products and Service Offerings deliverables are not designed for or specifically intended for use in nuclear facilities or other hazardous applications. COUNTY agrees that it is COUNTY'S responsibility to ensure safe use of Products and Service Offerings deliverables in such applications.

16.5 If requested by an authorized reseller on COUNTY'S behalf, COUNTY agrees PROVIDER may provide a copy of the Master Agreement to the authorized reseller to enable the processing of COUNTY'S order with that authorized reseller.

16.6 COUNTY understands that PROVIDER'S business partners, including any third party firms retained by COUNTY to provide consulting services, are independent of PROVIDER and are not PROVIDER'S agents. PROVIDER is not liable for nor bound by any acts of any such business partner unless (i) the business partner is providing services as a PROVIDER subcontractor in furtherance of an order placed under the Master Agreement and (ii) only to the same extent as PROVIDER would be responsible for the performance of PROVIDER resources under that order.

16.7 For software (i) that is part of Programs, Operating Systems, Integrated Software or Integrated Software Options (or all four) and (ii) that COUNTY receives from PROVIDER in binary form and (iii) that is licensed under an open source license that gives COUNTY the right to receive the source code for that binary, COUNTY may obtain a copy of the applicable source code from <https://oss.oracle.com/sources/> or <http://www.oracle.com/goto/opensourcecode>. If the source code for such software was not provided to COUNTY with the binary, COUNTY may also receive a copy of the source code on physical media by submitting a written request pursuant to the instructions in the "Written Offer for Source Code" section of the latter website.

16.8 Non-Discrimination/Public Funds. The Board of County Commissioners is committed to promoting full and equal business opportunity for all persons doing business in Clark County. PROVIDER acknowledges that COUNTY has an obligation to ensure that public funds are not used to subsidize private discrimination. PROVIDER agrees that it will not unlawfully discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or gender expression, age, disability, national origin, or any other protected status.

16.9 Companies that Boycott Israel. PROVIDER certifies that, as of the Effective Date, it was not engaged in, and agrees for the duration of this Master Agreement, not to engage in, a boycott of Israel. Boycott of Israel means, refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

16.10 Insurance.

A. PROVIDER maintains the following insurance at its expense to cover Oracle's performance of Services under the Master Agreement. Insurance carriers shall have a Best Key Rating of A-VII or higher.

i. Workers' Compensation—as required by the laws of the State of Nevada, in accordance with Nevada Revised Statutes Chapters 616A-616D, by an insurer qualified to write workers' compensation insurance in the State of Nevada.

ii. Commercial General Liability—\$5,000,000 per occurrence/aggregate bodily injury and \$5,000,000 per occurrence/aggregate tangible property damage; provided either on a Commercial General Liability or a Broad Form Comprehensive General Liability (including a Broad Form CGL endorsement) insurance form. Policies must contain a primary and non-contributory clause and must contain a waiver of subrogation endorsement. **A separate copy of the waiver of subrogation endorsement must be provided.**

iii. Automobile Liability—\$5,000,000 per occurrence, bodily injury and tangible property damage combined single limit per occurrence for bodily injury and property damage to include coverage against all insurance claims for injuries to persons or damages to property which may arise from Services rendered by Oracle and any auto used for the performance of Services under this Master Agreement.

iv. Professional Liability/Tech Errors and Omission Insurance including privacy and computer network security (also known as cyber liability insurance): \$2,000,000 per claim/aggregate covering PROVIDER's errors and omissions while providing Services under this Master Agreement and shall include claims involving security breach, system failure, data recovery, cyber extortion, social engineering, infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

B. Additional Insured/Primary Coverage: PROVIDER shall add COUNTY as an additional insured on the Commercial General Liability and Automobile Liability insurance policies identified above. ***A separate copy of the additional insured endorsements are required and must be provided for the Commercial General Liability and Automobile Liability policies. Policy numbers must be referenced on endorsements or the form number must be referenced on certificates.*** PROVIDER'S Commercial General Liability and Automobile Liability insurance coverage shall be primary as respects COUNTY, its officers and employees.

C. Endorsement/Change/Cancellation: The PROVIDER will give COUNTY notice within thirty (30) calendar days by certified mail "return receipt requested" of any material policy changes, cancellations, or any erosion of insurance limits. For Commercial General Liability and Automobile Liability insurance policies, either a copy of the additional insured endorsement, or a copy of the policy language that gives COUNTY automatic additional insured status must be attached to any certificate of insurance. *Policy number must be referenced on endorsement or the form number must be referenced on certificate.* PROVIDER may select a new insurance carrier or carriers or may obtain new or amended policies at any time but shall provide the COUNTY with certificates of insurance and endorsements and notice as referenced above. Upon COUNTY'S request, PROVIDER shall provide, within thirty (30) business days after COUNTY'S written request for insurance, a certificate of insurance, a Broker Letter for Professional/E&O/Cyber insurance coverage, and relevant endorsements showing the coverage noted above.

D. Material Term: For purposes of clarification, the requirements set forth in this Section 16.10 (Insurance) shall be considered material terms of this Master Agreement.

E. Additional Insurance: PROVIDER is encouraged to purchase any such additional insurance as it deems necessary.

F. Cost: PROVIDER shall pay all associated costs for the specified insurance.

G. Insurance Submittal Address: All certificates of insurance (or Broker Letter for Professional/E&O/Cyber insurance coverage) requested pursuant to this Section 16.10 shall be sent to the Clark County Purchasing and Contracts Division, Attention: Insurance Coordinator at 500 South Grand Central Parkway, 4<sup>th</sup> Floor, Las Vegas, Nevada 89155 or via email to: [countypurchasing@clarkcountynv.gov](mailto:countypurchasing@clarkcountynv.gov).

H. Insurance Form Instructions: The following information must be filled in by Oracle's Insurance Company representative:

1. Insurance Broker's name, complete address, phone and fax numbers.
2. Oracle's name, complete address, phone and fax numbers.
3. Commercial General Liability (Per Occurrence)
  - (A) Policy Number
  - (B) Policy Effective Date
  - (C) Policy Expiration Date
  - (D) Each Occurrence (\$5,000,000)
  - (E) Damage to Rented Premises (\$50,000)
  - (F) Personal & Advertising Injury (\$5,000,000)
  - (G) General Aggregate (\$5,000,000)
  - (H) Products - Completed Operations Aggregate (\$5,000,000)
4. Automobile Liability (Any Auto)
  - (A) Policy Number
  - (B) Policy Effective Date
  - (C) Policy Expiration Date
  - (D) Combined Single Limit (\$5,000,000)
5. Worker's Compensation
6. Professional Liability/Tech E&O (includes cyber liability)
  - (A) Policy Number
  - (B) Policy Effective Date
  - (C) Policy Expiration Date
  - (D) Aggregate (\$2,000,000)
7. Description: CBE Number and Name of Contract (must be identified on the initial insurance form and each renewal form).
8. Certificate Holder:  
Clark County, Nevada  
c/o Purchasing and Contracts Division  
Government Center, Fourth Floor  
500 South Grand Central Parkway  
P.O. Box 551217  
Las Vegas, Nevada 89155-1217

9. Appointed Agent Signature to include license number and issuing state.

16.11 Compliance with Laws. PROVIDER shall comply with all local, state and federal laws, statutes, regulations and rules, to the extent that such laws, statutes, regulations and rules, by their terms, are expressly applicable to PROVIDER'S provision of the Services under this Master Agreement and impose obligations directly upon PROVIDER in its role as an information technology services provider with respect to the Services. COUNTY shall comply with all local, state and federal laws, statutes, regulations and rules to the extent that such laws, statutes, regulations and rules, by their terms, are expressly applicable to COUNTY'S use and receipt of the Services (including Your Content) under this Master Agreement and impose obligations directly upon COUNTY with respect to the Services.

16.12 COUNTY agrees that it will not provide any of COUNTY'S business data (e.g., data residing in a computing environment) or personal information to PROVIDER except as necessary to perform Services under this Master Agreement and COUNTY agrees to use reasonable efforts to restrict PROVIDER'S access to such data.

To the extent COUNTY requires PROVIDER to access personal information (including without limitation health, payment card or other sensitive personal information) to perform Services under an order, the parties agree to specify any security measures applicable to PROVIDER'S treatment of such data in the order for Services.

16.13 Dispute Resolution. If COUNTY receives an invoice, and COUNTY in good faith believes that the amount on the invoice is calculated incorrectly, COUNTY shall notify PROVIDER of the alleged error within (thirty) 30 days of the invoice date specified on such invoice (the "Payment Period"). COUNTY and PROVIDER agree to use commercially reasonable efforts to resolve the invoicing error within the Payment Period. If COUNTY and PROVIDER come to agreement during the Payment Period on an adjusted amount, COUNTY shall promptly pay within the Payment Period the agreed-upon amount; otherwise COUNTY will pay the invoiced amount before the end of the Payment Period. If the parties do not agree during the Payment Period on an adjusted amount and COUNTY pays the invoiced amount by the end of the Payment Period, but the parties subsequently agree on an adjusted amount, then PROVIDER will promptly refund any fees determined to be owed to COUNTY.

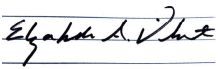
## 17. MASTER AGREEMENT EFFECTIVE DATE

The Effective Date of the Master Agreement is \_\_\_\_\_ (DATE TO BE COMPLETED BY ORACLE)

CLARK COUNTY NEVADA		Oracle America, Inc.	
Signature	_____	Signature	<div>DocuSigned by: <i>Stephanie Feaman</i> 3E4B21E890A347D</div>
Name	_____	Name	Stephanie Feaman
Title	_____	Title	Contracts Specialist IV
Signature Date	_____	Signature Date	13-Apr-2022   1:01 PM EDT

APPROVED AS TO FORM:

STEVEN B. WOLFSON  
District Attorney

By: 

ELIZABETH A. VIBERT  
Deputy District Attorney



## Schedule C – Cloud Services – Public Sector

Oracle America, Inc.  
500 Oracle Parkway  
Redwood Shores, CA 94065

("Oracle", "we", "us", "our" or  
"PROVIDER")

<b>Your Name ("You" or "COUNTY"):</b>	<b>CLARK COUNTY NEVADA</b>
<b>General Terms Reference:</b>	<b>US-GMA-2796822</b>

This Public Sector Cloud Services Schedule (this "Schedule C") is a Schedule to the Oracle Public Sector Master Agreement General Terms ("General Terms") referenced above. This Schedule C shall coterminate with the General Terms. For purposes of the Services under this Schedule C, the General Terms and this Schedule C constitute, collectively, the "Master Agreement"; other Schedules to the General Terms, such as Schedule P (Program Schedule), do not apply to the Services ordered under this Schedule C.

### 1. USE OF THE SERVICES

1.1 PROVIDER will make the Oracle services listed in COUNTY'S order (the "Services") available to COUNTY pursuant to the Master Agreement and COUNTY'S order. Except as otherwise stated in the Master Agreement or COUNTY'S order, COUNTY has the non-exclusive, worldwide, limited right to use the Services during the period defined in COUNTY'S order, unless earlier terminated in accordance with the Master Agreement or COUNTY'S order (the "Services Period"), solely for COUNTY'S internal business operations. COUNTY may allow COUNTY Users (as defined below) to use the Services for this purpose, and COUNTY is responsible for their compliance with the Master Agreement and COUNTY'S order.

1.2 The Service Specifications describe and govern the Services. During the Services Period, we may update the Services and Service Specifications (with the exception of the Data Processing Agreement as described below) to reflect changes in, among other things, laws, regulations, rules, technology, industry practices, patterns of system use, and availability of Third Party Content (as defined below). PROVIDER updates to the Services or Service Specifications will not materially reduce the level of performance, functionality, security or availability of the Services during the Services Period of COUNTY'S order.

1.3 COUNTY may not, and may not cause or permit others to: (a) use the Services to harass any person; cause damage or injury to any person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; send unsolicited bulk e-mail, junk mail, spam or chain letters; infringe property rights; or otherwise violate applicable laws, ordinances or regulations; (b) perform or disclose any benchmarking or availability testing of the Services; (c) perform or disclose any performance or vulnerability testing of the Services without PROVIDER'S prior written approval, or perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking, or remote access testing of the Services; or (d) use the Services to perform cyber currency or crypto currency mining ((a) through (d) collectively, the "Acceptable Use Policy"). In addition to other rights that we have in the Master Agreement and COUNTY'S order, we have the right to take remedial action if the Acceptable Use Policy is violated, and such remedial action may include removing or disabling access to material that violates the policy.

### 2. FEES AND PAYMENT

2.1 Once placed, COUNTY'S order is non-cancelable and the sums paid nonrefundable, except as provided in the Master Agreement or COUNTY'S order. Fees for Services listed in an order are exclusive of taxes and expenses.

2.2 If COUNTY exceeds the quantity of Services ordered, then COUNTY promptly must purchase and pay fees for the excess quantity.

### 3. OWNERSHIP RIGHTS AND RESTRICTIONS

3.1 COUNTY or COUNTY'S licensors retain all ownership and intellectual property rights in and to COUNTY'S Content (as defined below). We or our licensors retain all ownership and intellectual property rights in and to the Services, derivative works thereof, and anything developed or delivered by or on behalf of us under the Master Agreement.

3.2 COUNTY may have access to Third Party Content through use of the Services. Unless otherwise stated in COUNTY'S order, all ownership and intellectual property rights in and to Third Party Content and the use of such content is governed by separate third party terms between COUNTY and the third party.

3.3 COUNTY grants us the right to host, use, process, display and transmit COUNTY'S Content to provide the Services

pursuant to and in accordance with the Master Agreement and COUNTY'S order. COUNTY has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of COUNTY'S Content, and for obtaining all rights related to COUNTY'S Content required by PROVIDER to perform the Services.

3.4 COUNTY may not, and may not cause or permit others to: (a) modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, republish, download or copy any part of the Services (including data structures or similar materials produced by programs); (b) access or use the Services to build or support, directly or indirectly, products or services competitive to PROVIDER; or (c) license, sell, transfer, assign, distribute, outsource, permit timesharing or service bureau use of, commercially exploit, or make available the Services to any third party except as permitted by the Master Agreement or COUNTY'S order.

#### 4. NONDISCLOSURE

COUNTY'S Content residing in the Services will be considered Confidential Information subject to the terms of this section, Section 8 of the General Terms and COUNTY'S order. PROVIDER will protect the confidentiality of COUNTY'S Content residing in the Services for as long as such information resides in the Services. PROVIDER will protect the confidentiality of COUNTY'S Content residing in the Services in accordance with the Oracle security practices defined as part of the Service Specifications applicable to COUNTY'S order.

#### 5. PROTECTION OF COUNTY'S CONTENT

5.1 In order to protect COUNTY'S Content provided to PROVIDER as part of the provision of the Services, PROVIDER will comply with the applicable administrative, physical, technical and other safeguards, and other applicable aspects of system and content management, available at <http://www.oracle.com/us/corporate/contracts/cloud-services/index.html>.

5.2 To the extent COUNTY'S Content includes Personal Data (as that term is defined in the applicable data privacy policies and the Data Processing Agreement (as that term is defined below)), PROVIDER will furthermore comply with the following:

- a. the relevant Oracle privacy policies applicable to the Services, available at <http://www.oracle.com/us/legal/privacy/overview/index.html>; and
- b. the applicable version of the *Data Processing Agreement for Oracle Services* (the "Data Processing Agreement"), unless stated otherwise in COUNTY'S order. The version of the Data Processing Agreement applicable to COUNTY'S order (a) is available at <https://www.oracle.com/corporate/contracts/cloud-services/contracts.html#data-processing> and is incorporated herein by reference, and (b) will remain in force during the Services Period of COUNTY'S order. In the event of any conflict between the terms of the Data Processing Agreement and the terms of the Service Specifications (including any applicable Oracle privacy policies), the terms of the Data Processing Agreement shall take precedence.

5.3 Without prejudice to Sections 5.1 and 5.2 above, COUNTY is responsible for (a) any required notices, consents and/or authorizations related to COUNTY'S provision of, and our processing of, COUNTY'S Content (including any Personal Data) as part of the Services, (b) any security vulnerabilities, and the consequences of such vulnerabilities, arising from COUNTY'S Content, including any viruses, Trojan horses, worms or other harmful programming routines contained in COUNTY'S Content, and (c) any use by COUNTY or COUNTY Users of the Services in a manner that is inconsistent with the terms of the Master Agreement. To the extent COUNTY discloses or transmits COUNTY'S Content to a third party, we are no longer responsible for the security, integrity or confidentiality of such content outside of PROVIDER'S control.

5.4 Unless otherwise specified in COUNTY'S order (including in the Service Specifications), COUNTY'S Content may not include any sensitive or special data that imposes specific data security or data protection obligations on PROVIDER in addition to or different from those specified in the Service Specifications. If available for the Services, COUNTY may purchase additional services from us (e.g., Oracle Payment Card Industry Compliance Services) designed to address specific data security or data protection requirements applicable to such sensitive or special data COUNTY seeks to include in COUNTY'S Content.

#### 6. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES

6.1 Each party represents that it has validly entered into the Master Agreement and that it has the power and authority to do so. We warrant that during the Services Period, we will perform the Services using commercially reasonable care and skill in all material respects as described in the Service Specifications. If the Services provided to COUNTY were not performed as warranted, COUNTY must promptly provide us with a written notice that describes the deficiency in the Services (including, as applicable, the service request number notifying us of the deficiency in the Services).

6.2 WE DO NOT WARRANT THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, THAT WE WILL CORRECT ALL SERVICES ERRORS, OR THAT THE SERVICES WILL MEET COUNTY'S REQUIREMENTS OR EXPECTATIONS. WE ARE NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM COUNTY'S CONTENT OR THIRD PARTY CONTENT OR SERVICES PROVIDED BY THIRD PARTIES.

6.3 FOR ANY BREACH OF THE SERVICES WARRANTY, COUNTY'S EXCLUSIVE REMEDY AND OUR ENTIRE LIABILITY

SHALL BE THE CORRECTION OF THE DEFICIENT SERVICES THAT CAUSED THE BREACH OF WARRANTY, OR, IF WE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, COUNTY MAY END THE DEFICIENT SERVICES AND WE WILL REFUND TO COUNTY THE FEES PAID FOR THE DEFICIENT SERVICES FOR THE PERIOD OF TIME DURING WHICH THE SERVICES WERE DEFICIENT.

6.4 TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **7. LIMITATION OF LIABILITY**

7.1 IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR ANY LOSS OF REVENUE, PROFITS (EXCLUDING FEES UNDER THE MASTER AGREEMENT), SALES, DATA, DATA USE, GOODWILL, OR REPUTATION.

7.2 IN NO EVENT SHALL THE AGGREGATE LIABILITY OF PROVIDER AND OUR AFFILIATES ARISING OUT OF OR RELATED TO THE MASTER AGREEMENT OR COUNTY'S ORDER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNTS ACTUALLY PAID OR PAYABLE UNDER COUNTY'S ORDER FOR THE SERVICES GIVING RISE TO THE LIABILITY DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

## **8. ADDITIONAL INFRINGEMENT INDEMNIFICATION TERMS**

8.1 If PROVIDER is the Provider and exercises its option under Section 5.2 of the General Terms to end the license for and require the return of Material that is a component of the Services, including Oracle Software, then PROVIDER will refund any unused, prepaid fees that COUNTY has paid for such Material. If such Material is third party technology and the terms of the third party license do not allow PROVIDER to terminate the license, then PROVIDER may, upon thirty (30) days prior written notice, end the Services associated with such Material and refund to COUNTY any unused, prepaid fees for such Services.

8.2 We will not indemnify COUNTY to the extent that an infringement claim is based on Third Party Content or any Material from a third party portal or other external source that is accessible or made available to COUNTY within or by the Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, marketing data from third party data providers, etc.).

8.3 The phrase "user documentation" in the first sentence of Section 5.6 of the General Terms includes the Service Specifications referenced in COUNTY'S order for Services.

## **9. TERM AND TERMINATION**

9.1 Services shall be provided for the Services Period defined in COUNTY'S order. Notwithstanding anything to the contrary in the Service Specifications, the Services COUNTY orders will not be automatically renewed.

9.2 We may suspend COUNTY'S or COUNTY Users' access to, or use of, the Services if we believe that: (a) there is a significant threat to the functionality, security, integrity, or availability of the Services or any content, data, or applications in the Services; (b) COUNTY or COUNTY Users are accessing or using the Services to commit an illegal act; or (c) there is a violation of the Acceptable Use Policy. When reasonably practicable and lawfully permitted, we will provide COUNTY with advance notice of any such suspension. We will use reasonable efforts to re-establish the Services promptly after we determine that the issue causing the suspension has been resolved. During any suspension period, we will make COUNTY'S Content (as it existed on the suspension date) available to COUNTY. Any suspension under this section shall not excuse COUNTY from COUNTY'S obligation to make payments under the Master Agreement.

9.3 If either of us breaches a material term of the Master Agreement or any order and fails to correct the breach within thirty (30) days of written specification of the breach, then the breaching party is in default and the non-breaching party may terminate (a) in the case of breach of any order, the order under which the breach occurred; or (b) in the case of breach of the Agreement, the Agreement and any orders that have been placed under the Agreement. If PROVIDER terminates any orders as specified in the preceding sentence, COUNTY must pay within thirty (30) days all amounts that have accrued prior to such termination, as well as all sums remaining unpaid for the Services under such order(s) plus related taxes and expenses. Except for nonpayment of fees, the nonbreaching party may agree in its sole discretion to extend the thirty (30) day period for so long as the breaching party continues reasonable efforts to cure the breach. COUNTY agrees that if COUNTY is in default under the Master Agreement, COUNTY may not use those Services ordered.

9.4 COUNTY may terminate this Schedule at any time without cause by giving PROVIDER thirty (30) days prior written notice of such termination. Termination of this Schedule will not affect orders that are outstanding at the time of termination. Those orders will be performed according to their terms as if this Schedule were still in full force and effect. However, those orders may not be renewed or extended subsequent to termination of this Schedule.



9.5 At the end of the Services Period, we will make COUNTY'S Content (as it existed at the end of the Services Period) available for retrieval by COUNTY during a retrieval period set out in the Service Specifications. At the end of such retrieval period, and except as may be required by law, we will delete or otherwise render unrecoverable any of COUNTY'S Content that remains in the Services. Our data deletion practices are described in more detail in the Service Specifications.

## **10 THIRD-PARTY CONTENT, SERVICES AND WEBSITES**

10.1 The Services may enable COUNTY to link to, transfer COUNTY'S Content or Third Party Content to, or otherwise access third parties' websites, platforms, content, products, services, and information ("Third Party Services"). PROVIDER does not control and is not responsible for such Third Party Services. COUNTY is solely responsible for complying with the terms of access and use of Third Party Services, and if PROVIDER accesses or uses any Third Party Services on COUNTY'S behalf to facilitate performance of the Services, COUNTY is solely responsible for ensuring that such access and use, including through passwords, credentials or tokens issued or otherwise made available to COUNTY, is authorized by the terms of access and use for such services. If COUNTY transfers or causes the transfer of COUNTY'S Content or Third Party Content from the Services to a Third Party Service or other location, that transfer constitutes a distribution by COUNTY and not by PROVIDER.

10.2 Any Third Party Content we make accessible is provided on an "as-is" and "as available" basis without any warranty of any kind. COUNTY acknowledges and agrees that we are not responsible for, and have no obligation to control, monitor, or correct, Third Party Content. We disclaim all liabilities arising from or related to Third Party Content.

10.3 COUNTY acknowledges that: (i) the nature, type, quality and availability of Third Party Content may change at any time during the Services Period; and (ii) features of the Services that interoperate with Third Party Services such as Facebook™, YouTube™ and Twitter™, etc., depend on the continuing availability of such third parties' respective application programming interfaces (APIs). We may need to update, change or modify the Services under the Master Agreement as a result of a change in, or unavailability of, such Third Party Content, Third Party Services or APIs. If any third party ceases to make its Third Party Content or APIs available on reasonable terms for the Services, as determined by us in our sole discretion, we may cease providing access to the affected Third Party Content or Third Party Services without any liability to COUNTY. Any changes to Third Party Content, Third Party Services or APIs, including their unavailability, during the Services Period does not affect COUNTY'S obligations under the Master Agreement or the applicable order, and COUNTY will not be entitled to any refund, credit or other compensation due to any such changes.

## **11 SERVICE MONITORING, ANALYSES AND ORACLE SOFTWARE**

11.1 We continuously monitor the Services to facilitate PROVIDER'S operation of the Services; to help resolve COUNTY'S service requests; to detect and address threats to the functionality, security, integrity, and availability of the Services as well as any content, data, or applications in the Services; and to detect and address illegal acts or violations of the Acceptable Use Policy. PROVIDER monitoring tools do not collect or store any of COUNTY'S Content residing in the Services, except as needed for such purposes. PROVIDER does not monitor, and does not address issues with, non-Oracle software provided by COUNTY or any of COUNTY Users that is stored in, or run on or through, the Services. Information collected by Oracle monitoring tools (excluding COUNTY'S Content) may also be used to assist in managing PROVIDER'S product and service portfolio, to help PROVIDER address deficiencies in its product and service offerings, and for license management purposes.

11.2 We may (i) compile statistical and other information related to the performance, operation and use of the Services, and (ii) use data from the Services in aggregated form for security and operations management, to create statistical analyses, and for research and development purposes (clauses i and ii are collectively referred to as "Service Analyses"). We may make Service Analyses publicly available; however, Service Analyses will not incorporate COUNTY'S Content, Personal Data or Confidential Information in a form that could serve to identify COUNTY or any individual. We retain all intellectual property rights in Service Analyses.

11.3 We may provide COUNTY with the ability to obtain certain Oracle Software (as defined below) for use with the Services. If we provide Oracle Software to COUNTY and do not specify separate terms for such software, then such Oracle Software is provided as part of the Services and COUNTY has the non-exclusive, worldwide, limited right to use such Oracle Software, subject to the terms of the Master Agreement and COUNTY'S order (except for separately licensed elements of the Oracle Software, which separately licensed elements are governed by the applicable separate terms), solely to facilitate COUNTY'S use of the Services. COUNTY may allow COUNTY Users to use the Oracle Software for this purpose, and COUNTY is responsible for their compliance with the license terms. COUNTY'S right to use any Oracle Software will terminate upon the earlier of our notice (by web posting or otherwise) or the end of the Services associated with the Oracle Software. Notwithstanding the foregoing, if Oracle Software is licensed to COUNTY under separate terms, then COUNTY'S use of such software is governed by the separate terms. COUNTY'S right to use any part of the Oracle Software that is licensed under the separate terms is not restricted in any way by the Master Agreement.

## **12 ADDITIONAL EXPORT TERMS**

COUNTY acknowledges that the Services are designed with capabilities for COUNTY and COUNTY Users to access the Services

without regard to geographic location and to transfer or otherwise move COUNTY'S Content between the Services and other locations such as User workstations. COUNTY is solely responsible for the authorization and management of User accounts across geographic locations, as well as export control and geographic transfer of COUNTY'S Content.

### 13 ADDITIONAL NOTICE TERMS

13.1 Any notice required under the Master Agreement shall be provided to the other party in writing as specified in Section 14 of the General Terms.

13.2 We may give notices applicable to our Services customers by means of a general notice on the Oracle portal for the Services, and notices specific to COUNTY by electronic mail to COUNTY'S e-mail address on record in our account information or by written communication sent by first class mail or pre-paid post to COUNTY'S address on record in our account information.

### 14 OTHER

14.1 We are an independent contractor, and each party agrees that no partnership, joint venture, or agency relationship exists between the parties.

14.2 Our business partners and other third parties, including any third parties with which the Services have integrations or that are retained by COUNTY to provide consulting services, implementation services or applications that interact with the Services, are independent of PROVIDER and are not PROVIDER'S agents. We are not liable for, bound by, or responsible for any problems with the Services or COUNTY'S Content arising due to any acts of any such business partner or third party, unless the business partner or third party is providing Services as our subcontractor on an engagement ordered under the Master Agreement and, if so, then only to the same extent as we would be responsible for our resources under the Master Agreement.

14.3 Prior to entering into an order governed by the Master Agreement, COUNTY is solely responsible for determining whether the Services meet COUNTY'S technical, business or regulatory requirements. PROVIDER will cooperate with COUNTY'S efforts to determine whether use of the standard Services are consistent with those requirements. Additional fees may apply to any additional work performed by PROVIDER or changes to the Services. COUNTY remains solely responsible for COUNTY'S regulatory compliance in connection with COUNTY'S use of the Services.

14.4 Upon forty-five (45) days written notice and no more than once every twelve (12) months, PROVIDER may audit COUNTY'S use of Cloud Services to ensure COUNTY'S use of the Cloud Services is in compliance with the terms of the applicable order and the Master Agreement. Any such audit shall not unreasonably interfere with COUNTY'S normal business operations. PROVIDER shall comply with reasonable security and safety rules, policies, and procedures ("security rules") while performing any such audit, provided that (i) such security rules are applicable to the performance of the audit; (ii) COUNTY makes such security rules available to PROVIDER prior to the commencement of the audit; and (iii) such security rules do not modify or amend the terms and conditions of this Agreement or the applicable order(s).

COUNTY agrees to cooperate with PROVIDER'S audit and to provide reasonable assistance and access to information reasonably requested by PROVIDER.

The performance of the audit and non-public data obtained during the audit (including findings or reports that result from the audit) shall be subject to the provisions of section 4 (Nondisclosure) of this Schedule C.

Any usage in excess of COUNTY'S rights under the applicable order(s) shall be considered a change to the scope of services of the applicable order(s) and COUNTY shall be responsible for paying the additional fees related to use of the Services in excess of COUNTY'S rights. COUNTY agrees that PROVIDER shall not be responsible for any of COUNTY'S costs incurred in cooperating with the audit.

14.5 It is expressly agreed that the terms of the Master Agreement and any PROVIDER order shall supersede the terms in any purchase order, procurement internet portal, or other similar non-Oracle document and no terms included in any such purchase order, portal, or other non-Oracle document shall apply to the Services ordered. In the event of any inconsistencies between the terms of an order and the Master Agreement, the order shall take precedence; however, unless expressly stated otherwise in an order, the terms of the Data Processing Agreement shall take precedence over any inconsistent terms in an order. The Master Agreement and orders hereunder may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online by authorized representatives of COUNTY and of PROVIDER; however, PROVIDER may update the Service Specifications, including by posting updated documents on PROVIDER'S websites. No third party beneficiary relationships are created by the Master Agreement. The Uniform Computer Information Transactions Act does not apply to the Master Agreement or to orders placed under it.

### 15 AGREEMENT DEFINITIONS

15.1 "**Oracle Software**" means any software agent, application or tool that PROVIDER makes available to COUNTY for download specifically for purposes of facilitating COUNTY'S access to, operation of, and/or use with, the Services.

15.2 **"Program Documentation"** refers to the user manuals, help windows, readme files for the Services and any Oracle Software. COUNTY may access the documentation online at <http://oracle.com/contracts> or such other address specified by PROVIDER.

15.3 **"Service Specifications"** means the following documents, as applicable to the Services under COUNTY'S order: (a) the Oracle Cloud Hosting and Delivery Policies, the Program Documentation, the Oracle service descriptions, and the Data Processing Agreement described in this Schedule C; (b) Oracle's privacy policies; and (c) any other Oracle documents that are referenced in or incorporated into COUNTY'S order. The following do not apply to any non-Cloud Oracle service offerings acquired in COUNTY'S order, such as professional services: the Oracle Cloud Hosting and Delivery Policies and Program Documentation. The following do not apply to any Oracle Software: the Oracle Cloud Hosting and Delivery Policies, Oracle service descriptions, and the Data Processing Agreement.

15.4 **"Third Party Content"** means all software, data, text, images, audio, video, photographs and other content and material, in any format, that are obtained or derived from third party sources outside of PROVIDER that COUNTY may access through, within, or in conjunction with COUNTY'S use of, the Services. Examples of Third Party Content include data feeds from social network services, rss feeds from blog posts, Oracle data marketplaces and libraries, dictionaries, and marketing data. Third Party Content includes third-party sourced materials accessed or obtained by COUNTY'S use of the Services or any PROVIDER provided tools.

15.5 **"Users"** means those employees, contractors, and end users, as applicable, authorized by COUNTY or on COUNTY'S behalf to use the Services in accordance with the Master Agreement and COUNTY'S order. For Services that are specifically designed to allow COUNTY'S clients, agents, customers, suppliers or other third parties to access the Cloud Services to interact with COUNTY, such third parties will be considered "Users" subject to the terms of the Master Agreement and COUNTY'S order.

15.6 **"Your Content"** or **"COUNTY'S Content"** means all software, data (including Personal Data), text, images, audio, video, photographs, non-Oracle or third party applications, and other content and material, in any format, provided by COUNTY and of COUNTY'S Users that is stored in, or run on or through, the Services. Services under the Master Agreement, Oracle Software, other Oracle products and services, and Oracle intellectual property, and all derivative works thereof, do not fall within the meaning of the term "Your Content" or "COUNTY'S Content". COUNTY'S Content includes any Third Party Content that is brought by COUNTY into the Services, by COUNTY'S use of the Services or any PROVIDER provided tools.

15.7 Capitalized terms used but not defined in this Schedule C have the meanings set forth in the General Terms.



## Public Sector Schedule H - Hardware

Oracle America, Inc. ("Oracle" or "PROVIDER")  
500 Oracle Parkway  
Redwood Shores, CA 94065

Your Name: "You" or "COUNTY"	CLARK COUNTY NEVADA
General Terms Reference:	US-GMA-2796822

This Public Sector Hardware Schedule (this "Schedule H") is a Schedule to the General Terms referenced above. The General Terms and this Schedule H, together with any other Schedules that reference the General Terms, are the Master Agreement. This Schedule H shall coterminate with the General Terms.

### 1. DEFINITIONS

1.1 "**Commencement Date**" for the Hardware, Operating System and Integrated Software refers to the date the Hardware is delivered. For Integrated Software Options, the Commencement Date refers to the date the Hardware is delivered or the effective date of the order if shipment of Hardware is not required.

1.2 "**Integrated Software Options**" refers to software or programmable code embedded in, installed on, or activated on the Hardware that requires one or more unit licenses that COUNTY must separately order. Such separate order will set forth the fees for the Integrated Software Options COUNTY is ordering. Not all Hardware contains Integrated Software Options; please refer to the Oracle Integrated Software Options License Definitions, Rules and Metrics accessible at <http://oracle.com/contracts> (the "Integrated Software Options License Rules") for the specific Integrated Software Options that may apply to specific Hardware. PROVIDER reserves the right to designate new software features as Integrated Software Options in subsequent releases and that designation will be specified in the applicable documentation and in the Integrated Software Options License Rules.

1.3 Capitalized terms used but not defined in this Schedule H have the meanings set forth in the General Terms.

### 2. RIGHTS GRANTED

2.1 COUNTY'S Hardware order consists of the following items: Operating System (as defined in COUNTY'S configuration), Integrated Software and all Hardware equipment (including components, options and spare parts) specified on the applicable order. COUNTY'S Hardware order may also include Integrated Software Options. Integrated Software Options may not be activated or used until COUNTY separately orders them and pay the fees as set forth in and in accordance with such order.

2.2 COUNTY has the right to use the Operating System delivered with the Hardware subject to the terms of the license agreement(s) delivered with the Hardware. Current versions of the license agreements are located at <http://oracle.com/contracts>. COUNTY is licensed to use the Operating System and any Operating System updates acquired through technical support only as incorporated in, and as part of, the Hardware.

2.3 COUNTY has the limited, non-exclusive, royalty free, non-transferable, non-assignable right to use Integrated Software delivered with the Hardware subject to the terms of this Schedule H and the applicable documentation. COUNTY is licensed to use that Integrated Software and any Integrated Software updates acquired through technical support only as incorporated in, and as part of, the Hardware. COUNTY has the limited, non-exclusive, royalty free, non-transferable, non-assignable right to use Integrated Software Options that COUNTY separately orders subject to the terms of this Schedule H, the applicable documentation and the Integrated Software Options License Rules; the Integrated Software Options License Rules are incorporated in and made a part of this Schedule H. COUNTY is licensed to use those Integrated Software Options and any Integrated Software Options updates acquired through technical support only as incorporated in, and as part of, the Hardware. To fully understand COUNTY'S license right to any Integrated Software Options that COUNTY separately orders, COUNTY needs to review the Integrated Software Options License Rules. In the event of any conflict between the Master Agreement and the Integrated Software Options License Rules, the Integrated Software Options License Rules shall take precedence.

2.4 The Operating System or Integrated Software or Integrated Software Options (or all three) may include separate works, identified in a readme file, notice file or the applicable documentation, which are licensed under open source or similar license terms; COUNTY'S rights to use the Operating System, Integrated Software and Integrated Software Options under such terms are not restricted in any way by the Master Agreement including this Schedule H. The appropriate terms associated with such separate works can be found in the readme files, notice files or in the documentation accompanying the Operating System, Integrated Software, and Integrated Software Options.

2.5 Upon payment for Hardware-related Service Offerings, COUNTY has the non-exclusive, non-assignable, royalty free, perpetual, limited right to use for COUNTY'S internal business operations anything developed by PROVIDER and delivered to COUNTY under this Schedule H ("deliverables"); however, certain deliverables may be subject to additional license terms which are provided in the order.

### **3. RESTRICTIONS**

3.1 COUNTY may only make copies of the Operating System, Integrated Software and Integrated Software Options for archival purposes, to replace a defective copy, or for program verification. COUNTY shall not remove any copyright notices or labels on the Operating System, Integrated Software or Integrated Software Options. COUNTY shall not decompile or reverse engineer (unless required by law for interoperability) the Operating System or Integrated Software.

3.2 COUNTY acknowledges that to operate certain Hardware, COUNTY'S facility must meet a minimum set of requirements as described in the Hardware documentation. Such requirements may change from time to time, as communicated by PROVIDER to COUNTY in the applicable Hardware documentation.

3.3 The prohibition on the assignment or transfer of the Operating System or any interest in it under section 15 of the General Terms shall apply to all Operating Systems licensed under this Schedule H, except to the extent that such prohibition is rendered unenforceable under applicable law.

### **4. TRIAL PROGRAMS**

PROVIDER may include additional Programs on the Hardware (e.g., Exadata Storage Server software). COUNTY is not authorized to use those Programs unless COUNTY has a license specifically granting COUNTY the right to do so; however, COUNTY may use those additional Programs for trial, non-production purposes for up to thirty (30) days from the date of delivery provided that COUNTY may not use the trial Programs to provide or attend third party training on the content and/or functionality of the Programs. To use any of these Programs after the thirty (30) day trial period, COUNTY must obtain a license for such Programs from PROVIDER or an authorized reseller. If COUNTY decides not to obtain a license for any Program after the thirty (30) day trial period, COUNTY will cease using and promptly delete any such Programs from COUNTY computer systems. Programs licensed for trial purposes are provided "as is" and PROVIDER does not provide technical support or offer any warranties for these Programs.

### **5. TECHNICAL SUPPORT**

5.1 If ordered, Oracle Hardware and Systems Support (including first year and all subsequent years) is provided under Oracle's Hardware and Systems Support Policies in effect at the time the technical support services are provided. COUNTY agrees to cooperate with PROVIDER and provide the access, resources, materials, personnel, information, and consents that PROVIDER may require in order to perform the technical support services. The Oracle Hardware and Systems Support Policies are incorporated in this Schedule H and are subject to change at PROVIDER'S discretion; however, PROVIDER will not materially reduce the level of technical support services provided during the period for which fees for Oracle Hardware and Systems Support have been paid. COUNTY should review the policies prior to entering into the order for technical support services. COUNTY may access the current version of the Oracle Hardware and Systems Support Policies at <http://oracle.com/contracts>.

5.2 Oracle Hardware and Systems Support is effective upon the Commencement Date of the Hardware or upon the effective date of the order if shipment of Hardware is not required.

### **6. HARDWARE-RELATED SERVICE OFFERINGS**

In addition to technical support, COUNTY may order a limited number of Hardware-related Service Offerings under this Schedule H as listed in the Hardware-Related Service Offerings document, which is at <http://oracle.com/contracts>. COUNTY agrees to provide PROVIDER with all information, access and full good faith cooperation reasonably necessary to enable PROVIDER to deliver these Service Offerings and COUNTY will perform the actions identified in the order as COUNTY'S responsibility. If while performing these Service Offerings PROVIDER requires access to another vendor's products that are part of COUNTY'S system, COUNTY will be responsible for acquiring all such products and the appropriate license rights necessary for PROVIDER to access such products on COUNTY'S behalf. Service Offerings provided may be related to COUNTY'S license to use Products owned or distributed by PROVIDER which COUNTY acquires under a separate order. The agreement referenced in that order shall govern COUNTY'S use of such Products.

### **7. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES**

7.1 PROVIDER provides a limited warranty ("Oracle Hardware Warranty") for (i) the Hardware, (ii) the Operating System and the Integrated Software and the Integrated Software Options, and (iii) the Operating System media, the Integrated Software media and the Integrated Software Options media ("media", and (i), (ii) and (iii) collectively, "Hardware Items"). PROVIDER 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 COUNTY. PROVIDER warrants that the media will be free from material defects in materials and workmanship

for a period of ninety (90) days from the date the media is delivered to COUNTY. COUNTY may access a more detailed description of the Oracle Hardware Warranty at <http://www.oracle.com/us/support/policies/index.html> ("Warranty Web Page"). Any changes to the Oracle Hardware Warranty specified on the Warranty Web Page will not apply to Hardware or media ordered prior to such change. The Oracle Hardware Warranty applies only to Hardware and media that have been (1) manufactured by or for PROVIDER, and (2) sold by PROVIDER (either directly or by an Oracle-authorized distributor). 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 PROVIDER.

7.2 PROVIDER also warrants that technical support services and Hardware-related Service Offerings (as referenced in section 6 above) ordered and provided under this Schedule H will be provided in a professional manner consistent with industry standards. COUNTY must notify PROVIDER of any technical support service or Hardware-related Service Offerings warranty deficiencies within ninety (90) days from performance of the deficient technical support service or Hardware-related Service Offerings.

**7.3 FOR ANY BREACH OF THE ABOVE WARRANTIES, COUNTY'S EXCLUSIVE REMEDY AND PROVIDER'S ENTIRE LIABILITY SHALL BE: (i) THE REPAIR OR, AT PROVIDER'S OPTION AND EXPENSE, REPLACEMENT OF THE DEFECTIVE HARDWARE ITEM, OR IF SUCH REPAIR OR REPLACEMENT IS NOT REASONABLY ACHIEVABLE, THE REFUND OF THE FEES COUNTY PAID PROVIDER FOR THE DEFECTIVE HARDWARE ITEM OR (ii) THE REPERFORMANCE OF THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS; OR, IF PROVIDER CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, COUNTY MAY END THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS AND RECOVER THE FEES COUNTY PAID TO PROVIDER FOR THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS. TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS WITH RESPECT TO THE ABOVE ITEMS, INCLUDING ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

7.4 Replacement units for defective parts or Hardware Items replaced under the Oracle Hardware Warranty may be new or like new quality. Such replacement units assume the warranty status of the Hardware into which they are installed and have no separate or independent warranty of any kind. Title in all defective parts or Hardware Items shall transfer back to PROVIDER upon removal from the Hardware.

**7.5 PROVIDER DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE HARDWARE, OPERATING SYSTEM, INTEGRATED SOFTWARE, INTEGRATED SOFTWARE OPTIONS OR MEDIA.**

7.6 No warranty will apply to any Hardware, Operating System, Integrated Software, Integrated Software Options or media which has been:

- a. modified, altered or adapted without PROVIDER'S written consent (including modification or removal of the Oracle/Sun 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 PROVIDER'S quality standards;
- d. improperly installed by any party other than PROVIDER or an authorized Oracle certified installation partner;
- e. used with equipment or software not covered by an Oracle warranty, to the extent that the problems are attributable to such use;
- f. relocated, 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 then-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 for parties or in the countries referenced in 7.6(h) and 7.6(i) above; or
- k. purchased from any entity other than PROVIDER or an Oracle authorized reseller.

7.7 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 or original lessee of the Hardware and may be void in the event that title to the Hardware is transferred to a third party.

## **8. AUDIT**

Upon forty-five (45) days written notice, PROVIDER may audit COUNTY'S use of the Operating System, Integrated Software and Integrated Software Options. COUNTY agrees to cooperate with PROVIDER'S audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with COUNTY'S normal business operations. COUNTY agrees to pay within thirty (30) days of written notification any fees applicable to COUNTY'S use of the Operating System, Integrated Software and Integrated Software Options in excess of COUNTY'S license rights. If COUNTY does not pay, PROVIDER can end (a) Service Offerings (including technical support) related to the Operating System, Integrated Software and Integrated Software Options, (b) licenses of the Operating System, Integrated Software and Integrated Software Options ordered under this Schedule H and related agreements and/or (c) the Master Agreement. COUNTY agrees that PROVIDER shall not be responsible for any of COUNTY'S costs incurred in cooperating with the audit.

## **9. ORDER LOGISTICS**

### **9.1 Delivery, Installation and Acceptance of Hardware**

9.1.1 COUNTY is responsible for installation of the Hardware unless COUNTY purchases installation services from PROVIDER for that Hardware.

9.1.2 PROVIDER will deliver the Hardware in accordance with Oracle's Order and Delivery Policies which are in effect at the time of COUNTY'S order and which may be accessed at <http://oracle.com/contracts>. PROVIDER will use the delivery address specified by COUNTY on COUNTY'S purchasing document or when COUNTY'S purchasing document does not indicate a ship to address, the location specified on the order and the delivery terms in the Order and Delivery Policies that are applicable to COUNTY'S country of destination will apply.

9.1.3 Acceptance of the Hardware is deemed to occur on delivery.

9.1.4 PROVIDER may make and invoice COUNTY for partial deliveries.

9.1.5 PROVIDER may make substitutions and modifications to the Hardware that do not cause a material adverse effect in overall Hardware performance.

9.1.6 PROVIDER will use its reasonable commercial efforts to deliver the Hardware within a timeframe that is consistent with PROVIDER'S past practices regarding the amount and type of Hardware that COUNTY has ordered.

### **9.2 Delivery and Installation of Integrated Software Options**

9.2.1 COUNTY is responsible for installation of the Integrated Software Options unless the Integrated Software Options have been pre-installed by PROVIDER on the Hardware COUNTY is purchasing under the order or unless COUNTY purchases installation services from PROVIDER for the Integrated Software Options.

9.2.2 PROVIDER has made available to COUNTY for electronic download at the electronic delivery web site located at the following Internet URL: <http://edelivery.oracle.com> the Integrated Software Options listed in the order. Through the Internet URL, COUNTY can access and electronically download to COUNTY'S location the latest production release as of the effective date of the applicable order of the Integrated Software Options and related documentation for the Integrated Software Options listed. Provided that COUNTY has continuously maintained technical support for the listed Integrated Software Options, COUNTY may continue to download the Integrated Software Options and related documentation. Please be advised that not all Integrated Software Options are available on all Hardware/Operating System combinations. For the most recent Integrated Software Options availability please check the electronic delivery web site specified above. COUNTY acknowledges that PROVIDER is under no further delivery obligation with respect to Integrated Software Options under the applicable order, electronic download or otherwise.

### **9.3 Transfer of Title**

Title to the Hardware will transfer upon delivery.

### **9.4 Territory**

The Hardware shall be installed in the country/countries that COUNTY specifies as the delivery location on COUNTY'S purchasing document or when COUNTY'S purchasing document does not indicate a ship to address, the location specified in the order.

### **9.5 Pricing, Invoicing, and Payment Obligation**

9.5.1 COUNTY may change a Hardware order prior to shipment subject to the then current change order fee as established by PROVIDER from time to time. The applicable change order fees and a description of allowed changes are defined in the Order and Delivery Policies, which may be accessed at <http://oracle.com/contracts>.

9.5.2 In entering into payment obligations under an order, COUNTY agrees and acknowledges that COUNTY has not relied on the future availability of any Hardware, Program or updates. However, (a) if COUNTY orders technical support, the preceding sentence does not relieve PROVIDER of its obligation to provide such technical support under the Master Agreement, if and when available, in accordance with PROVIDER'S then current technical support policies, and (b) the preceding sentence does not change the rights granted to COUNTY under an order and the Master Agreement.

9.5.3 Hardware and Integrated Software Options fees are invoiced as of the respective Commencement Dates.

9.5.4 Hardware-related Service Offering fees are invoiced after performance of the Hardware-related Service Offering performance; specifically, technical support fees are invoiced quarterly in arrears. The period of performance for all

Hardware-related Service Offerings is effective upon the Commencement Date of the Hardware or upon the effective date of the order if shipment of Hardware is not required.

9.5.5 In addition to the prices listed on the order, PROVIDER will invoice COUNTY for any applicable freight charges or applicable taxes, and COUNTY will be responsible for such charges and taxes notwithstanding any express or implied provision in the "Incoterms" referenced in the Order and Delivery Policies. The Order and Delivery Policies may be accessed at <http://oracle.com/contracts>.





## Schedule LVM – Oracle Linux and Oracle VM Service Offerings

Oracle America, Inc. ("PROVIDER" or "Oracle")  
500 Oracle Parkway  
Redwood Shores, CA 94065

Your Name: "COUNTY" or "You"	CLARK COUNTY NEVADA
General Terms Reference:	US-GMA-2796822

This Oracle Linux and Oracle VM Services Schedule (this "Schedule LVM") is a Schedule to the General Terms referenced above. The General Terms and this Schedule LVM, together with any other Schedules that reference the General Terms, are the Master Agreement. This Schedule LVM shall coterminate with the General Terms.

### 1. DEFINITIONS

1.1 **"Covered Programs"** is defined as the specific set of software products listed on the document titled Oracle Linux and Oracle VM Included Files (available at <http://www.oracle.com/us/support/library/enterprise-linux-indemnification-069347.pdf>) for which COUNTY has ordered Oracle Linux/ Oracle VM Service Offering(s), including any related program documentation and patches and bug fixes acquired through such Oracle Linux/ Oracle VM Service Offering(s).

1.2 **"Oracle Linux Service Offering(s)" and "Oracle VM Service Offering(s)"** (collectively, **"Oracle Linux/Oracle VM Service Offering(s)"**) refer to Oracle Linux and Oracle VM support services respectively and Oracle Linux/Oracle VM-related Service Offerings(s) as defined under the Oracle Linux and Oracle VM support policies.

1.3 **"Oracle Linux/Oracle VM Term(s)"** is defined as the duration for which COUNTY has acquired the applicable Oracle Linux/Oracle VM Service Offering(s).

1.4 **"Physical CPU(s)"** is defined as each monolithic integrated circuit responsible for executing a System's Covered Programs. A monolithic integrated circuit with multiple cores or hyperthreading is counted as a single Physical CPU when determining the total number of Physical CPUs in a System.

1.5 **"Supported System(s)"** is defined as a System to which COUNTY applies or intend to apply Oracle Linux/Oracle VM Service Offering(s) received from Oracle at the specified service level in COUNTY'S order, including but not limited to updates, patches, fixes, security alerts, work arounds, configuration, installation assistance (for Oracle VM, Support System(s) includes Oracle VM Manager)

1.6 **"System(s)"** is defined as the computer on which the Oracle Linux programs and/or Oracle VM Server programs are installed. Where computers/blades are clustered, each computer/blade within the cluster shall be defined as a System. (For purposes of calculating the price of the Oracle VM Service Offering(s), the computers where the Oracle VM Manager programs are installed are not counted.)

1.7 Capitalized terms used but not defined in this Schedule LVM have the meanings set forth in the General Terms.

### 2. ORACLE LINUX/ORACLE VM SERVICE OFFERING(S)

2.1 The Oracle Linux/Oracle VM Service Offering(s) are provided at the support level and for the Oracle Linux/ Oracle VM Term defined in COUNTY'S order.

2.2 When ordering Oracle Linux/Oracle VM Service Offering(s) COUNTY must comply with the following availability rules:

- Oracle Linux Premier Limited, Oracle Linux Basic Limited, and Oracle VM Premier Limited are available only for Systems with no more than 2 Physical CPUs per System.
- Oracle Linux Premier, Oracle Linux Basic, Oracle Linux Network, and Oracle VM Premier are available for Systems with any number of Physical CPUs per System.

2.3 Upon Oracle's acceptance of COUNTY'S order, COUNTY has the limited right to receive the applicable Oracle Linux/Oracle VM Service Offering(s) solely for COUNTY'S business operations and subject to the Terms of this Schedule LVM.

2.4 For purposes of the order, (a) Oracle Linux Service Offering(s) consist of the Oracle Linux support services level COUNTY may have ordered for the Oracle Linux programs; and (b) Oracle VM Service Offering(s) consist of the Oracle VM support services level COUNTY may have ordered for the Oracle VM programs. If ordered, the Oracle Linux/Oracle VM Service Offering(s) (including initial year and all subsequent years) are provided under the Oracle Linux and Oracle VM support policies in effect at the time the Oracle Linux/Oracle VM Service Offering(s) are provided. The Oracle Linux and Oracle VM support policies, which are incorporated in this Schedule LVM, are subject to change at Oracle's discretion; however, Oracle will not materially reduce the level of Oracle Linux/Oracle VM Service Offering(s) provided during the period for which fees for the Oracle Linux/Oracle VM Service Offering(s) have been paid. Oracle Linux/Oracle VM Service Offering(s) are available for certain Systems, and may be subject to additional restrictions as set forth in the Oracle Linux and Oracle VM support policies. COUNTY should review the Oracle Linux and Oracle VM support policies prior to entering into the order for the applicable Oracle Linux/Oracle VM Service Offering(s). COUNTY may access the current version of the Oracle Linux and Oracle VM support policies at <http://www.oracle.com/us/support/library/enterprise-linux-support-policies-069172.pdf>.

2.5 The Oracle Linux/Oracle VM Service Offering(s) are effective upon the effective date of the order unless otherwise stated in COUNTY'S order. If COUNTY'S order was placed through the Oracle Store, the effective date is the date COUNTY'S order was accepted by Oracle.

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

### 3. INDEMNIFICATION

3.1 Provided COUNTY is a current subscriber to the Oracle Linux/Oracle VM Service Offering(s), if a third party makes a claim against COUNTY that any Covered Programs furnished by Oracle, and used by COUNTY for COUNTY'S business operations infringes its intellectual property rights, Oracle, at its sole cost and expense, will defend COUNTY against the claim and indemnify COUNTY from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by Oracle, if COUNTY does the following:

- a. Notifies Oracle promptly in writing, not later than thirty (30) days after COUNTY receives notice of the claim (or sooner if required by applicable law);
- b. Gives Oracle sole control of the defense and any settlement negotiations; and
- c. Gives Oracle the information, authority, and assistance it needs to defend against or settle the claim.

3.2 If Oracle believes or it is determined that any Covered Programs may have violated a third party's intellectual property rights, Oracle may choose to either modify the Covered Programs to be non-infringing (while substantially preserving their utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, then Oracle may, upon thirty (30) days notice to COUNTY, terminate COUNTY'S right to receive indemnification for COUNTY'S further use of the Covered Programs and refund any unused, prepaid service fees, COUNTY has paid for the Covered Programs.

3.3 Notwithstanding the above, Oracle will not defend or indemnify COUNTY in connection with claims, damages, liabilities, costs or expenses arising out of, or caused by, or related to: (a) COUNTY'S distribution of the Covered Programs; (b) COUNTY'S alteration of the Covered Programs; (c) COUNTY'S use of a version of the Covered Programs which has been superseded, if the infringement claim could have been avoided by using the current version of the Covered Programs; (d) COUNTY'S use of the Covered Programs outside the scope of use identified in the user documentation or the Oracle Linux and Oracle VM support policies; (e) COUNTY'S use of the Covered Programs when COUNTY was not a subscriber to the Oracle Linux/Oracle VM Service Offering(s); (f) any information, design, specification, instruction, software, data, or material not furnished by Oracle; (g) the combination of any Covered Programs with any products or services not provided by Oracle; (h) COUNTY'S claim, lawsuit, or action against a third party. **This section provides COUNTY'S exclusive remedy for any infringement claims or damages, liabilities, costs or expenses.**

### 4. FEES; ORACLE LINUX/ORACLE VM-RELATED SERVICE OFFERING(S)

4.1 For the initial Oracle Linux/Oracle VM Term for which fees are to be paid for the applicable Oracle Linux/Oracle VM Service Offering(s), the fees due will be calculated based upon the number of Systems to be supported that are in existence as of the date of COUNTY'S order. For the second and all subsequent Oracle Linux/Oracle VM Terms, the fees due will be calculated based on the total number of Systems supported that are in existence as of the first day of the applicable Oracle Linux/Oracle VM Term(s) (e.g., fees calculated for the second term will be based upon the total number of Systems supported that are in existence on the first day of the second term).

4.2 In addition to the fees for the Oracle Linux/Oracle VM Service Offering(s) specified above, COUNTY agrees to pay additional fees for the level of Oracle Linux/ Oracle VM Service Offering(s) ordered based on the maximum number of Supported Systems that exist simultaneously at any time during the applicable Oracle Linux/Oracle VM Term and in accordance with the Oracle Linux and Oracle VM support policies for the level of support COUNTY is ordering. In the event that COUNTY decides to increase the

number of Supported Systems, COUNTY agrees that COUNTY will promptly place an order for Oracle Linux/ Oracle VM Service Offering(s) for the increased number of these Supported System(s) and pay the additional required fees.

4.3 COUNTY may order a limited number of Oracle Linux/Oracle VM-related Services Offering(s) under this Schedule LVM, as listed in the Oracle Linux and Oracle VM-related Service Offering(s) document, which is at <http://oracle.com/contracts>. For these Oracle Linux/ Oracle VM-related Service Offering(s), the fees due for the initial Oracle Linux/Oracle VM Term and all subsequent Oracle Linux/Oracle VM Terms will be based on Oracle's then current Oracle Linux and Oracle VM Service Offering(s) pricing policies.

## **5. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES**

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

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

**5.3 ORACLE DOES NOT GUARANTEE THAT THE COVERED PROGRAMS WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT ORACLE WILL CORRECT ALL PROGRAM ERRORS. FOR ANY BREACH OF THE ABOVE WARRANTIES, COUNTY'S EXCLUSIVE REMEDY, AND ORACLE'S ENTIRE LIABILITY, SHALL BE THE REPERFORMANCE OF THE DEFICIENT ORACLE LINUX/ORACLE VM SERVICE OFFERING, OR IF ORACLE CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALY REASONABLE MANNER, COUNTY MAY END THE RELEVANT ORACLE LINUX/ORACLE VM SERVICE OFFERING AND RECOVER THE FEES PAID TO ORACLE FOR THE DEFICIENT ORACLE LINUX/ORACLE VM SERVICE OFFERING.**

## **6. LIMITATION OF LIABILITY FOR INFRINGEMENT CLAIMS**

For purposes of this Schedule LVM, the limitation of liability in the General Terms referenced above shall not be construed to limit Oracle's indemnification obligation or COUNTY'S exclusive remedy for any infringement claims or damages, liabilities, costs or expenses under Section 3 of this Schedule LVM.

## **7. GOVERNING LAW AND JURISDICTION**

See Section 13 (Governing Law and Jurisdiction) of the General Terms.

## **8. AUDIT**

Upon forty-five (45) days written notice, Oracle may audit COUNTY'S use of the Oracle Linux/Oracle VM Service Offering(s) to ensure COUNTY'S use of the Oracle Linux/Oracle VM Service Offering(s) is in compliance with the terms of the applicable order and the Master Agreement. Any such audit shall not unreasonably interfere with COUNTY'S normal business operations.

COUNTY agrees to cooperate with Oracle's audit and provide reasonable assistance and access to information reasonably requested by Oracle.

The performance of the audit and non-public data obtained during the audit (including findings or reports that result from the audit) shall be subject to the provisions of the Nondisclosure section of the Master Agreement.

If the audit identifies non-compliance, COUNTY agrees to remedy (which may include, without limitation, the payment of any fees applicable to COUNTY use of the Oracle Linux/Oracle VM Service Offering(s) in excess of COUNTY'S service rights) such non-compliance within thirty (30) days of written notification of that non-compliance. If COUNTY does not remedy the non-compliance, Oracle can end (a) Oracle Linux/Oracle VM Service Offering(s), (b) Oracle Linux/Oracle VM-related Service Offering(s), and/ or (c) the Master Agreement. COUNTY agrees that Oracle shall not be responsible for any of COUNTY'S costs incurred in cooperating with the audit.

## **9. ORDER LOGISTICS**

9.1.1 Once placed, COUNTY'S order shall be non-cancelable and the sums paid nonrefundable, except as provided in the Master Agreement.

9.1.2 Oracle Linux/Oracle VM Service Offering(s) fees are invoiced in advance of the Oracle Linux/Oracle VM Service Offering performance; specifically, Oracle Linux/Oracle VM Service Offering(s) fees are invoiced annually in advance. The period of performance for all Oracle Linux/Oracle VM Service Offering(s) is effective upon the effective date of the order.

9.1.3 If an order for an Oracle Linux/Oracle VM Service Offering is for an Oracle Linux/Oracle VM Term that is for multiple years, COUNTY is required to pay the fees covering such multiple years in advance of the start of such Oracle Linux/Oracle VM Term.



## Public Sector Schedule P - Program

Oracle America, Inc. ("Oracle" or "PROVIDER")  
500 Oracle Parkway  
Redwood Shores, CA 94065

Your Name: "COUNTY" or "You"

CLARK COUNTY NEVADA

General Terms Reference:

US-GMA-2796822

This Public Sector Program Schedule (this "Schedule P") is a Schedule to the General Terms referenced above. The General Terms and this Schedule P, together with any other Schedules that reference the General Terms, are the Master Agreement. This Schedule P shall coterminate with the General Terms.

### 1. DEFINITIONS

1.1 "**Commencement Date**" refers to the date of shipment of tangible media or the effective date of the order if shipment of tangible media is not required.

1.2 Capitalized terms used but not defined in this Schedule P have the meanings set forth in the General Terms.

### 2. RIGHTS GRANTED

2.1 Upon the full signing of COUNTY'S order by both Oracle and COUNTY, COUNTY has the non-exclusive, non-assignable, royalty free, perpetual (unless otherwise specified in the order), limited right to use the Programs and receive any Program-related Service Offerings COUNTY ordered solely for COUNTY'S internal operations and subject to the terms of the Master Agreement, including the definitions and rules set forth in the order and the Program Documentation.

2.2 Upon payment for Program-related Service Offerings, COUNTY has the non-exclusive, non-assignable, royalty free, perpetual, limited right to use for COUNTY'S internal operations anything developed by Oracle and delivered to COUNTY under this Schedule P ("deliverables"); however, certain deliverables may be subject to additional license terms provided in the order.

2.3 COUNTY may allow COUNTY'S agents and contractors (including, without limitation, outsourcers) to use the Programs and deliverables for COUNTY'S internal operations and COUNTY is responsible for their compliance with the General Terms and this Schedule P in such use. For Programs that are specifically designed to allow COUNTY'S customers and suppliers to interact with COUNTY in the furtherance of COUNTY'S internal business operations, such use is allowed under the General Terms and this Schedule P.

2.4 COUNTY may make a sufficient number of copies of each Program for COUNTY'S licensed use and one copy of each Program media.

### 3. RESTRICTIONS

3.1 The Programs may contain or require the use of third party technology that is provided with the Programs. Oracle may provide certain notices to COUNTY in Program Documentation, readmes or notice files in connection with such third party technology. Third party technology will be licensed to COUNTY either under the terms of the Master Agreement or, if specified in the Program Documentation, readmes or notice files, under Separate Terms. COUNTY'S rights to use Separately Licensed Third Party Technology under Separate Terms are not restricted in any way by the Master Agreement. However, for clarity, notwithstanding the existence of a notice, third party technology that is not Separately Licensed Third Party Technology shall be deemed part of the Programs and is licensed to COUNTY under the terms of the Master Agreement.

If COUNTY is permitted under an order to distribute the Programs, COUNTY must include with the distribution all such notices and any associated source code for Separately Licensed Third Party Technology as specified, in the form and to the extent such source code is provided by Oracle, and COUNTY must distribute Separately Licensed Third Party Technology under Separate Terms (in the form and to the extent Separate Terms are provided by Oracle). Notwithstanding the foregoing, COUNTY'S rights to the Programs are solely limited to the rights granted in COUNTY'S order.

3.2 COUNTY may not:

- a. remove or modify any Program markings or any notice of Oracle's or its licensors' proprietary rights;

- b. make the Programs or materials resulting from the Service Offerings available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific Program license or materials from the Service Offerings COUNTY has acquired);
- c. cause or permit reverse engineering (unless required by law for interoperability), disassembly or decompilation of the Programs (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by Programs);
- d. disclose results of any Program benchmark tests without Oracle's prior written consent, except as required by applicable law, provided that COUNTY gives Oracle prior notice and an opportunity to oppose such disclosure (unless prohibited by law).

3.3 The prohibition on the assignment or transfer of the Programs or any interest in them under section 15 of the General Terms shall apply to all Programs licensed under this Schedule P, except to the extent that such prohibition is rendered unenforceable under applicable law.

#### **4. TRIAL PROGRAMS**

COUNTY may order trial Programs, or Oracle may include additional Programs with COUNTY'S order which COUNTY may use for trial, non-production purposes only. COUNTY may not use the trial Programs to provide or attend third party training on the content and/or functionality of the Programs. COUNTY has thirty (30) days from the Commencement Date to evaluate these Programs. To use any of these Programs after the thirty (30) day trial period, COUNTY must obtain a license for such Programs from Oracle or an authorized reseller. If COUNTY decides not to obtain a license for any Program after the thirty (30) day trial period, COUNTY will cease using and promptly delete any such Programs from COUNTY'S computer systems. Programs licensed for trial purposes are provided "as is" and Oracle does not provide technical support or offer any warranties for these Programs.

#### **5. TECHNICAL SUPPORT**

5.1 For purposes of an order, technical support consists of Oracle's annual technical support services COUNTY may have ordered from Oracle or an authorized reseller for the Programs. If ordered, annual technical support (including first year and all subsequent years) is provided under Oracle's technical support policies in effect at the time the technical support services are provided. COUNTY agrees to cooperate with Oracle and provide the access, resources, materials, personnel, information and consents that Oracle may require in order to perform the technical support services. The technical support policies are incorporated in this Schedule P and are subject to change at Oracle's discretion; however, Oracle policy changes will not result in a material reduction in the level of technical support services provided for supported Programs during the period for which fees for technical support have been paid. COUNTY should review the policies prior to entering into the order for the applicable technical support services. COUNTY may access the current version of the technical support policies at <http://oracle.com/contracts>.

5.2 If COUNTY decides to purchase technical support for any Program license within a license set, COUNTY is required to purchase technical support at the same level for all licenses within that license set. COUNTY may desupport a subset of licenses in a license set only if COUNTY agrees to terminate that subset of licenses. The technical support fees for the remaining licenses will be priced in accordance with the technical support policies in effect at the time of termination. Oracle's license set definition is available in the current technical support policies. If COUNTY decides not to purchase technical support, COUNTY may not update any unsupported Program licenses with new versions of the Program.

#### **6. PROGRAM-RELATED SERVICE OFFERINGS**

In addition to technical support, COUNTY may order a limited number of Program-related Service Offerings under this Schedule P as listed in the Program-Related Service Offerings document, which is at <http://oracle.com/contracts>. COUNTY agrees to provide Oracle with all information, access and full good faith cooperation reasonably necessary to enable Oracle to deliver these Service Offerings and COUNTY will perform the actions identified in the order as COUNTY'S responsibility. If while performing these Service Offerings Oracle requires access to another vendor's products that are part of COUNTY'S system, COUNTY will be responsible for acquiring all such products and the appropriate license rights necessary for Oracle to access such products on COUNTY'S behalf. Service Offerings provided may be related to COUNTY'S license to use Programs owned or distributed by Oracle which COUNTY acquires under a separate order. The agreement referenced in that order shall govern COUNTY'S use of such Programs.

#### **7. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES**

7.1 Oracle warrants that a Program licensed to COUNTY will operate in all material respects as described in the applicable Program Documentation for a period of one year after delivery (i.e., via physical shipment or electronic download). COUNTY must notify Oracle of any Program warranty deficiency within one year after delivery. Oracle also warrants that technical support services and Program-related Service Offerings (as referenced in section 6 above) ordered and provided under this Schedule P

will be provided in a professional manner consistent with industry standards. COUNTY must notify Oracle of any technical support service or Program-related Service Offerings warranty deficiencies within ninety (90) days from performance of the deficient technical support service or Program-related Service Offerings.

**7.2 ORACLE DOES NOT GUARANTEE THAT THE PROGRAMS WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT ORACLE WILL CORRECT ALL PROGRAM ERRORS.**

**7.3 FOR ANY BREACH OF THE ABOVE WARRANTIES, COUNTY'S EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE: (A) THE CORRECTION OF PROGRAM ERRORS THAT CAUSE BREACH OF THE WARRANTY; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE ERRORS OF THE APPLICABLE PROGRAM LICENSE IN A COMMERCIALY REASONABLE MANNER, COUNTY MAY END COUNTY'S PROGRAM LICENSE AND RECOVER THE FEES COUNTY PAID TO ORACLE FOR THE PROGRAM LICENSE AND ANY UNUSED, PREPAID TECHNICAL SUPPORT FEES COUNTY HAS PAID FOR THE PROGRAM LICENSE; OR (B) THE REPERFORMANCE OF THE DEFICIENT PROGRAM-RELATED SERVICE OFFERINGS; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, COUNTY MAY END THE DEFICIENT PROGRAM-RELATED SERVICE OFFERINGS AND RECOVER THE FEES COUNTY PAID TO ORACLE FOR THE DEFICIENT PROGRAM-RELATED SERVICE OFFERINGS.**

**7.4 TO THE EXTENT NOT PROHIBITED BY LAW, THIS WARRANTY IS EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**8. AUDIT**

Upon forty-five (45) days written notice, Oracle may audit COUNTY'S use of the Programs to ensure COUNTY'S use of the Programs is in compliance with the terms of the applicable order and the Master Agreement. Any such audit shall not unreasonably interfere with COUNTY'S normal business operations. COUNTY agrees to cooperate with Oracle's audit and provide reasonable assistance and access to information. Such assistance shall include, but shall not be limited to, the running of Oracle data measurement tools on COUNTY'S servers and providing the resulting data to Oracle. Oracle shall comply with reasonable security and safety rules, policies, and procedures, including but not limited to any facility or system access rules applicable to outside parties ("security rules") while performing any such audit, provided that such security rules are applicable to the performance of the audit; COUNTY makes such security rules available to Oracle prior to the commencement of the audit; and such security rules do not modify or amend the terms and conditions of the Master Agreement or the applicable order. If the audit identifies non-compliance, COUNTY shall be responsible for remedying such non-compliance, which may include, without limitation, the payment of any fees for additional licenses for Programs or the discontinuation of noncompliant use. If the remedy requires COUNTY to pay fees, COUNTY will submit a contract modification to document the amount of such fees. The performance of the audit and non-public data obtained during the audit (including findings or reports that result from the audit) shall be subject to the provisions of section 8 (Nondisclosure) of the General Terms. COUNTY agrees that Oracle shall not be responsible for any of COUNTY'S costs incurred in cooperating with the audit.

**9. ORDER LOGISTICS**

**9.1 Delivery and Installation**

9.1.1 COUNTY is responsible for installation of the Programs unless the Programs have been pre-installed by Oracle on the Hardware COUNTY is purchasing under the order or unless COUNTY purchases installation services from Oracle for those Programs.

9.1.2 Oracle has made available to COUNTY for electronic download at the electronic delivery web site located at the following Internet URL: <http://edelivery.oracle.com> the Programs listed in the Programs and Program Support Service Offerings section of the applicable order. Through the Internet URL, COUNTY can access and electronically download to COUNTY'S location the latest production release as of the effective date of the applicable order of the software and related Program Documentation for each Program listed. Provided that COUNTY has continuously maintained technical support for the listed Programs, COUNTY may continue to download the Programs and related Program Documentation. Please be advised that not all Programs are available on all hardware/operating system combinations. For the most recent Program availability please check the electronic delivery web site specified above. COUNTY acknowledges that Oracle is under no further delivery obligation with respect to Programs under the applicable order, electronic download or otherwise unless otherwise stated in COUNTY'S Order.

9.1.3 If ordered, Oracle will deliver the tangible media to the delivery address specified on the applicable order. COUNTY agrees to pay applicable media and shipping charges. The applicable shipping terms for the delivery of tangible media are: FCA Shipping Destination, Prepaid, and Add.

**9.2 Territory**

The Programs shall be used in the United States.

### **9.3 Pricing, Invoicing and Payment Obligation**

9.3.1 In entering into payment obligations under an order, COUNTY agrees and acknowledges that COUNTY has not relied on the future availability of any Program or updates. However, (a) if COUNTY orders technical support, the preceding sentence does not relieve Oracle of its obligation to provide such technical support under the Master Agreement, if and when available, in accordance with Oracle's then current technical support policies, and (b) the preceding sentence does not change the rights granted to COUNTY under an order and the Master Agreement.

9.3.2 Program fees are invoiced as of the Commencement Date.

9.3.3 Program-related Service Offering fees are invoiced after the performance of the Program-related Service Offering performance; specifically, technical support fees are invoiced quarterly in arrears. The period of performance for all Program-related Service Offerings is effective upon the Commencement Date.

9.3.4 In addition to the prices listed on the order, and unless specified otherwise in COUNTY'S Order, Oracle will invoice COUNTY for any applicable shipping charges or applicable taxes and COUNTY will be responsible for such charges and taxes. Clark County is a political subdivision of the State of Nevada and under the provisions of Nevada Revised Statutes 372.325 is exempt from payment of Sales or Use Tax.





## Public Sector Schedule S - Services

Oracle America, Inc. ("PROVIDER" or  
"Oracle")  
500 Oracle Parkway  
Redwood Shores, CA 94065

Your Name: "COUNTY" or "You"

CLARK COUNTY NEVADA

General Terms Reference:

US-GMA-2796822

This Public Sector Services Schedule (this "Schedule S") is a Schedule to the General Terms referenced above. The General Terms and this Schedule S, together with any other Schedules that reference the General Terms, are the Master Agreement. This Schedule S shall coterminate with the General Terms.

### 1. DEFINITIONS

1.1 **"Services"** refers to consulting, advanced customer support services, education or other services which COUNTY has ordered from Oracle under this Schedule S.

Capitalized terms used but not defined in this Schedule S have the meanings set forth in the General Terms.

### 2. RIGHTS GRANTED / RESTRICTIONS

2.1 Upon payment for Services, COUNTY has the non-exclusive, non-assignable, royalty free, perpetual, limited right to use for COUNTY'S internal operations anything developed by Oracle and delivered to COUNTY under this Schedule S ("deliverables"); however, certain deliverables may be subject to additional license terms provided in the order.

2.2 COUNTY may allow COUNTY'S agents and contractors (including, without limitation, outsourcers) to use deliverables for COUNTY'S internal operations and COUNTY is responsible for their compliance with the General Terms and this Schedule S in such use.

2.3 Services provided may be related to COUNTY'S license to use Products owned or distributed by Oracle which COUNTY acquires under a separate order. The agreement referenced in that order shall govern COUNTY'S use of such Products.

### 3. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES

3.1 Oracle warrants that Services will be provided in a professional manner consistent with industry standards. COUNTY must notify Oracle of any warranty deficiencies within ninety (90) days from performance of the deficient Services.

**3.2 FOR ANY BREACH OF THE WARRANTY, COUNTY'S EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE THE RE-PERFORMANCE OF THE DEFICIENT SERVICES, OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, COUNTY MAY END THE DEFICIENT SERVICES AND RECOVER THE FEES COUNTY PAID TO ORACLE FOR THE DEFICIENT SERVICES.**

**3.3 TO THE EXTENT NOT PROHIBITED BY LAW, THIS WARRANTY IS EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**