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7. No Duty to Correct Errors. Except as expressly set forth in this Agreement, You acknowledge and agree that We have no obligation under this Agreement to correct any defects or errors in the Licensed Application furnished to You under this Agreement, regardless of whether You inform Us of such defects or errors or We otherwise become aware of, such defects or errors.

8. CONFIDENTIALITY.

8.1. Ownership of Confidential Information. "Confidential Information" means any material or information relating to a party's research, development, products, product plans, services, clients, client lists, markets, software, developments, inventions, processes, formulas, technologies, designs, drawings, marketing, finances, or other business information or trade secrets that such party treats as proprietary or confidential. Without limiting the foregoing, the software and any databases (including any data models, structures, non-Licensee specific data and aggregated statistical data contained therein) of Oracle shall constitute Confidential Information of Oracle. You acknowledge that during the performance of this Agreement, You will have access to certain of Oracle's Confidential Information or Confidential Information of third parties that We are required to maintain as confidential. You agree that all items of Confidential Information are proprietary to Oracle or such third party, as applicable, and shall remain the sole property of Oracle or such third party.

8.2. Mutual Confidentiality Obligations. You agree as follows: (i) to use the Confidential Information only for the purposes described herein; (ii) to not reproduce the Confidential Information and hold in confidence and protect the Confidential Information from dissemination to, and use by, any third party; (iii) to not create any derivative work from Confidential Information disclosed to You by Oracle; (iv) to restrict access to the Confidential Information to such of Your personnel, agents, and/or consultants, if any, who have a need to have access and who have been advised of and have agreed in writing to treat such information in accordance with the terms of this Agreement; and (v) to return or destroy all of Our Confidential Information in Your possession upon termination or expiration of this Agreement.

8.3. Confidentiality Exceptions. Notwithstanding the foregoing, the provisions of Sections 9.1 and 9.2 shall not apply to Confidential Information that (i) is publicly available or in the public domain at the time disclosed; (ii) is or becomes publicly available or enters the public domain through no fault of the recipient; (iii) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto; (iv) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (v) is independently developed by the recipient; or (vi) is approved for release or disclosure by Us without restriction. Notwithstanding the foregoing, You may disclose Confidential Information to the limited extent required (x) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that You shall first have given written notice to Us and made a reasonable effort to obtain a protective order; or (y) to establish Your rights under this Agreement, including to make such court filings as You may be required to do.

## 9. INDEMNIFICATION.

9.1. Oracle shall defend, indemnify, and hold You harmless against all costs and reasonable expenses (including reasonable attorneys' fees), damages, and liabilities arising out of any claim by a third party that any use of, or access to, the Licensed Application by You as expressly authorized under this Agreement infringes or misappropriates, as applicable, any U.S. patent issued as of the Effective Date or any copyrights or trade secrets under applicable laws of any jurisdiction within the United States, provided that You give Oracle (i) prompt written notice of such claim; (ii) authority to control and direct the defense and/or settlement of such claim; and (iii) such information and assistance as Oracle may reasonably request, at Oracle's expense, in connection with such defense and/or settlement. Notwithstanding the foregoing, Oracle shall have no obligation or liability to the extent that the alleged infringement arises from (1) the combination, operation, or use of the Licensed Application with products, services, information, materials, technologies, business methods or processes not furnished by Oracle; (2) modifications to the Licensed Application, which modifications are not made by Oracle; (3) use of the Licensed Application to analyze and/or audit any third party software; (4) failure to use updates to the Licensed Application provided by Oracle; or (5) use of the Licensed Application except in accordance with any applicable user documentation or specifications (circumstances under the foregoing clauses (1), (2), (3), (4), and (5), collectively, "Your Indemnity Responsibilities").

9.2. Upon the occurrence of any claim for which indemnity is or may be due under this Section 10, or in the event that Oracle believes that such a claim is likely, Oracle may, at its option (i) appropriately modify the Licensed Application so that it becomes non-infringing, or substitute functionally equivalent software or services; (ii) obtain a license to the applicable third-party intellectual property rights; or (iii) terminate this Agreement on written notice to You and refund to You any unused license fees under the then current License Term(s). The obligations set forth in this Section 10 shall constitute Oracle's entire liability and Your sole remedy for any actual or alleged infringement or misappropriation.

9.3. You shall indemnify, hold harmless, and, at Oracle's option, defend Oracle from and against all losses, expenses (including reasonable attorneys' fees), damages, and liabilities resulting from any claim by any third party arising from or in connection with Your Indemnity Responsibilities. Oracle agrees to give You (i) prompt written notice of such claim; (ii) authority to control and direct the defense and/or settlement of such claim; and (iii) such information and assistance as You may reasonably request, at Your expense, in connection with such defense and/or settlement. Notwithstanding the foregoing, You shall not settle any third-party claim against Oracle unless such settlement completely and forever releases Oracle with respect thereto or unless Oracle provides its prior written consent to such settlement. In any action for which

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11. PUBLICITY. Oracle may include Your and Your company's name in a general list of its customers, which may be posted on Oracle's website. Nothing in the Agreement shall grant Oracle any right, title, or interest in any Your or Your company's mark or logo.

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13. MODIFICATION TO TERMS. We may change these terms and conditions from time to time and will notify You of any such changes by posting a notice of such changes or otherwise notifying You. If You object to any such changes, Your sole recourse shall be to cease using the Licensed Application. Continued access to and/or use of the Licensed Application following notice of such modifications or changes shall indicate Your assent to and acceptance of this Agreement, including but not limited to all posted changes.

14. MISCELLANEOUS. This Agreement is governed by the substantive and procedural laws of the State of California and each party agrees to submit to the exclusive jurisdiction of, and venue in, the courts in San Francisco or Santa Clara counties in California in any dispute arising out of or relating to this Agreement. The Uniform Computer Information Transactions Act does not apply to this Agreement or to orders placed under it. If any provision of this Agreement is held to be unenforceable, that provision will be disregarded for purposes of the dispute or other circumstance giving rise to such finding, and the remaining provisions will remain in full force. The failure of Oracle to require Your performance of any provision in this Agreement shall not affect Oracle's full right to require such performance at any time thereafter; nor shall the waiver by Oracle of any breach of any provision of this Agreement be taken or held to be a waiver of the provision itself. You may not assign this Agreement. Any attempted or purported assignment by You shall be null and void. All headings herein are solely for the purpose of convenience. Excepting any contractual agreement between the person or entity that purchased the right to access the Licensed Application and Oracle, this Agreement is the complete and exclusive statement of the agreement between Oracle and You, which supersedes any proposal or prior agreement, oral or written, and any other communications between the parties in relation to the subject matter of this Agreement. You will comply with all applicable export and import control laws and regulations in Your use of the Licensed Application including regulations of the United States Bureau of Industry and Security and other applicable agencies. You will not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of any Licensed Application to any country for which approval is required under the laws of the United States or any other country unless the appropriate export license or approval has first been obtained. Each of the components that constitute the Licensed Application is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and/or "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Licensed Application with only those rights set forth herein. In the event You need to contact or provide legal notice to Us, notice shall be delivered to: Oracle America, Inc., 500 Oracle Parkway, Redwood Shores, CA 94065, Attention: General Counsel, Legal Department and considered effective upon receipt. Any legal notice that We are required to delivered hereunder will be posted on the Application Service and deemed effective when posted.