

YOU AGREE THAT BY PLACING AN ORDER THROUGH AN ORDERING DOCUMENT THAT INCORPORATES THESE GENERAL TERMS (THE "ORDERING DOCUMENT") YOU AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THE ORDERING DOCUMENT AND THESE GENERAL TERMS. IF YOU ARE PLACING SUCH AN ORDER ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THE ORDERING DOCUMENT AND THESE GENERAL TERMS AND, IN SUCH EVENT, "YOU" AND "YOUR" AS USED IN THESE GENERAL TERMS SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU OR SUCH ENTITY DO NOT AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THE ORDERING DOCUMENT AND THESE GENERAL TERMS, YOU SHALL NOT PLACE AN ORDER OR USE PRODUCTS OR SERVICES OFFERINGS.



## GENERAL TERMS FOR TALARI PRODUCTS AND SERVICES

These General Terms (these "General Terms") are between Oracle America, Inc. ("Oracle") and the individual or entity that has executed the order that incorporates these General Terms by reference. In placing an order that is subject to these General Terms, you agree that the Schedules (as defined below) that are attached to these General Terms are incorporated into these General Terms. If a term is relevant only to a specific Schedule, that term applies only to that Schedule when that Schedule is incorporated into these General 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 You by Oracle under Schedule H and specifically listed (i) in accompanying documentation, (ii) on an Oracle webpage or (iii) via a mechanism that facilitates installation for use with Your Hardware. Integrated Software does not include and You do 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 Oracle. For specific Hardware and Integrated Software (as defined in Schedule H) separately ordered.

1.3 "**Master Agreement**" refers to these General Terms (including any amendments thereto) and the two Schedules incorporated into the Master Agreement (including any amendments to those incorporated Schedules). The Master Agreement governs Your use of the Products and Service Offerings ordered from Oracle 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 Oracle that You have 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.

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, and/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 You have ordered. Such Service Offerings are further described in the applicable Schedule.

1.12 "**You**" and "**Your**" refers to the individual or entity that has executed these General Terms.

### 2. MASTER AGREEMENT TERM AND APPLICABLE SCHEDULES

This Master Agreement is applicable to the order which this Master Agreement accompanies. As of the Effective Date, the following Schedules are incorporated into the Master Agreement: Schedule H – Hardware, Schedule P – Program, and Schedule S – Services.

The Schedules set forth terms and conditions that apply specifically to certain types of Oracle 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 You may receive or have received from Oracle. You understand that You may purchase any Products and related Service Offerings or other Service Offerings independently of any other Products or Service Offerings. Your 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. You acknowledge that You have entered into the purchase without reliance on any financing or leasing arrangement with Oracle or its affiliate.

### **4. OWNERSHIP**

Oracle 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 Subject to sections 5.5, 5.6 and 5.7 below, if a third party makes a claim against either You or Oracle ("Recipient" which may refer to You or Oracle depending upon which party received the Material), that any information, design, specification, instruction, software, data, hardware, or material (collectively, "Material") furnished by either You or Oracle ("Provider" which may refer to You or Oracle 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 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; 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 Oracle is the Provider of an infringing Program, any unused, prepaid technical support fees You have paid to Oracle for the license of the infringing Program. If such return materially affects Oracle's ability to meet its obligations under the relevant order, then Oracle may, at its option and upon 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 Oracle is the Provider of infringing Hardware, any unused, prepaid technical support fees You have paid to Oracle 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, Oracle 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 You may have paid to Oracle for the Program license and any unused, prepaid technical support fees You have paid to Oracle for the Program license.

5.5 Provided You are a current subscriber to Oracle technical support services for the Operating System (e.g., Talari Support Services), then for the period of time for which You were 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 that You have 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 (as applicable)" (i.e., Oracle will not indemnify You for Your use of the Operating System and/or Integrated Software when You were not a subscriber to the applicable Oracle technical support services).

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. Oracle will not indemnify You for any portion of an infringement claim that is based upon the combination of any Material with any products or services not provided by Oracle. 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, Oracle will indemnify You for infringement claims for Separately Licensed Third Party Technology to the same extent as Oracle is required to provide infringement indemnification for the Program under the terms of the Master Agreement. Oracle will not indemnify You for infringement caused by Your actions against any third party if the Program(s) as delivered to You and used in accordance with the terms of the Master Agreement would not otherwise infringe any third party intellectual property rights. Oracle will not indemnify You for any intellectual property infringement claim(s) known to You at the time license rights are obtained.

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

## 6. TERMINATION

6.1 If either of us breaches a material term of the Master Agreement and fails to correct the breach within 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 Oracle terminates the Master Agreement as specified in the preceding sentence, You must pay within 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. Except for nonpayment of fees, the non-breaching party may agree in its sole discretion to extend the 30 day period for so long as the breaching party continues reasonable efforts to cure the breach. You agree that if You are in default under the Master Agreement, You may not use those Products or Service Offerings ordered.

6.2 If You have used a contract with Oracle or an affiliate of Oracle to pay for the fees due under an order and You are in default under that contract, You may not use the Products and/or Service Offerings that are subject to such contract.

6.3 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.

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

7.1 All fees payable to Oracle are due within 30 days from the invoice date. You agree to pay any sales, value-added or other similar taxes imposed by applicable law that Oracle must pay based on the Products and/or Service Offerings You ordered, except for taxes based on Oracle's income. Also, You will reimburse Oracle for reasonable expenses related to providing Service Offerings.

7.2 You understand that You may receive multiple invoices for the Products and Service Offerings You ordered. Oracle will invoice upon shipment or, in the case of services, upon receipt of Your purchase order unless otherwise specified in Your Order.

## 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**"). We each agree to disclose only information that is required for the performance of obligations under the Master Agreement. Confidential Information shall be limited to the terms and pricing under the Master Agreement and 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 We each agree not to disclose each other's Confidential Information to any third party other than those set forth in the following sentence for a period of three years from the date of the disclosing party's disclosure of the Confidential Information to the receiving party. We may disclose Confidential Information only to those employees or agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than under 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 law.

## 9. ENTIRE AGREEMENT

9.1 You agree 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 You 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 by authorized representatives of You and of Oracle. 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. ORACLE'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THE MASTER AGREEMENT OR YOUR ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES YOU PAID ORACLE UNDER THE SCHEDULE GIVING RISE TO THE LIABILITY, AND IF SUCH DAMAGES RESULT FROM YOUR USE OF PRODUCTS OR SERVICE OFFERINGS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES YOU PAID ORACLE FOR THE DEFICIENT PRODUCT OR SERVICE OFFERINGS GIVING RISE TO THE LIABILITY.**

## **11. EXPORT**

Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Products. You agree that such export laws govern Your use of the Products (including technical data) and any Service Offerings deliverables provided under the Master Agreement, and You agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). You agree that no data, information, 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 of us 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 of the obligated party. We both will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 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 Your 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 State of California and You and Oracle agree 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 the Master Agreement.

## **14. NOTICE**

If You have a dispute with Oracle or if You wish to provide a notice under the Indemnification section of these General Terms, or if You become subject to insolvency or other similar legal proceedings, You will promptly send written notice to: Oracle America, Inc., 500 Oracle Parkway, Redwood Shores, CA 94065, Attention: General Counsel, Legal Department

## **15. ASSIGNMENT**

You 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.

## **16. OTHER**

16.1 Oracle is an independent contractor and we agree that no partnership, joint venture, or agency relationship exists between us. We each 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 Oracle'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. You agree that it is Your responsibility to ensure safe use of Products and Service Offerings deliverables in such applications.

16.5 If requested by an authorized reseller on Your behalf, You agree Oracle may provide a copy of the Master Agreement to the authorized reseller to enable the processing of Your order with that authorized reseller.

16.6 The Uniform Computer Information Transactions Act does not apply to the Master Agreement or orders placed under it. You understand that Oracle's business partners, including any third party firms retained by You to provide consulting services, are independent of Oracle and are not Oracle's agents. Oracle is not liable for nor bound by any acts of any such business partner unless (i) the business partner is providing services as an Oracle subcontractor in furtherance of an order placed under the Master Agreement and (ii) only to the same extent as Oracle would be responsible for the performance of Oracle resources under that order.

16.7 The Product includes software that is subject to open source licenses and such open source software is licensed under the terms of the license that accompanies such open source software. To the extent portions of the Product are distributed under and subject to open source licenses obligating Oracle to make the source code for such portions publicly available (such as the GNU General Public License ("GPL") or the GNU Library General Public License ("LGPL")), Oracle will make such source code portions (including Oracle modifications, as appropriate) available upon request for a period of up to three years from the date of distribution. Such request can be made in writing to Oracle America, Inc., 500 Oracle Parkway, Redwood Shores, CA 94065, , ATTN: Legal. You may obtain a copy of the GPL at <http://www.gnu.org/licenses/gpl.html>, and a copy of the LGPL at <http://www.gnu.org/licenses/lgpl.html>.

## SCHEDULE H - Hardware

This Hardware Schedule (this "Schedule H") is a Schedule to the General Terms to which this Schedule H is attached. The General Terms and this Schedule H, together with the attached Schedule P and Schedule S, 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.

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 Your Hardware order consists of the following items: Operating System (as defined in Your configuration), Integrated Software and all Hardware equipment (including components, options and spare parts) specified on the applicable order.

2.2 You have the right to use the Operating System delivered with the Hardware subject to the terms of this Agreement. You are 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 You have 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. You are 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.

2.4 The Operating System or Integrated Software (or both) 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; Your rights to use the Operating System and Integrated Software 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 and Integrated Software.

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

### 3. RESTRICTIONS

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

3.2 You acknowledge that to operate certain Hardware, Your 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 Oracle to You 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

Oracle may include additional Programs on the Hardware. You are not authorized to use those Programs unless You have a license specifically granting You the right to do so; however, You may use those additional Programs for trial, non-production purposes for up to 30 days from the date of delivery provided that You 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 30 day trial period, You must obtain a license for such Programs from Oracle or an authorized reseller. If You decide not to obtain a license for any Program after the 30 day trial period, You will cease using and promptly delete any such Programs from Your 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 After the expiration of the initial Talari Hardware Warranty, You may purchase Talari support services for the Talari Hardware. Talari support services acquired with Your order may be renewed annually and, if You renew Talari support services for the same systems and same configurations, for the first and second renewal years the technical support fee will not increase by more than 5% over the prior year's fees.

5.2 If ordered, Talari support services (including first year and all subsequent years) is provided under the Talari Support Policies in effect at the time the support services are provided. You agree 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 Talari Support Policies are incorporated in this Schedule H and are subject to change at Oracle's discretion; however, Oracle will not materially reduce the level of technical support services provided during the period for which fees for Talari support services have been paid. You should review the policies prior to entering into the order for technical support services. The current version of the Talari Support Policies is attached to this order as Exhibit A.

5.3 Talari support services for Talari Hardware are effective as outlined in Your Order.

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

In addition to technical support, You may order a limited number of Hardware-related Service Offerings under this Schedule H. You agree to provide Oracle with all information, access and full good faith cooperation reasonably necessary to enable Oracle to deliver these Service Offerings and You will perform the actions identified in the order as Your responsibility. If while performing these Service Offerings Oracle requires access to another vendor's products that are part of Your system, You will be responsible for acquiring all such products and the appropriate license rights necessary for Oracle to access such products on Your behalf. Service Offerings provided may be related to Your license to use Products owned or distributed by Oracle which You acquire under a separate order. The agreement referenced in that order shall govern Your use of such Products.

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

7.1 Oracle provides a limited warranty ("Talari Hardware Warranty") for (i) the Hardware, (ii) the Operating System and the Integrated Software, and (iii) the Operating System media, the Integrated Software media ("media", and (i), (ii) and (iii) collectively, "Hardware Items"). Oracle warrants that the Hardware will be free from, and using the Operating System and Integrated Software will not cause in the Hardware, material defects in materials and workmanship for three years from the date the Hardware is delivered to You. Oracle warrants that the media will be free from material defects in materials and workmanship for a period of 90 days from the date the media is delivered to You. The Talari Hardware Warranty applies only to Hardware and media that have been (1) manufactured by or for Oracle, and (2) sold by Oracle (either directly or by a Oracle-authorized distributor). The Hardware may be new or like new. The Talari Hardware Warranty applies to Hardware that is new and Hardware that is like-new which has been remanufactured and certified for warranty by Oracle.

7.2 Oracle 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. You must notify Oracle of any technical support service or Hardware-related Service Offerings warranty deficiencies within 90 days from performance of the deficient technical support service or Hardware-related Service Offerings.

**7.3 FOR ANY BREACH OF THE ABOVE WARRANTIES, YOUR EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE: (i) THE REPAIR OR, AT ORACLE'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 YOU PAID ORACLE FOR THE DEFECTIVE HARDWARE ITEM AND THE REFUND OF ANY UNUSED PREPAID TECHNICAL SUPPORT FEES YOU HAVE PAID FOR THE DEFECTIVE HARDWARE ITEM; OR (ii) THE REPERFORMANCE OF THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS AND RECOVER THE FEES YOU PAID TO ORACLE 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 Talari 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 Oracle upon removal from the Hardware.

**7.5 ORACLE DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE HARDWARE, OPERATING SYSTEM, INTEGRATED SOFTWARE, OR MEDIA. YOU SHOULD MAKE PERIODIC BACKUP COPIES OF THE DATA STORED ON THE HARDWARE AS A PRECAUTION AGAINST POSSIBLE FAILURES, ALTERATION, OR LOSS OF THE DATA. BEFORE RETURNING THE HARDWARE FOR SERVICE, YOU SHOULD BACK UP DATA AND REMOVE ANY**

**CONFIDENTIAL, PROPRIETARY, OR PERSONAL INFORMATION. ORACLE IS NOT RESPONSIBLE FOR DAMAGE TO OR LOSS OF, OR SECURITY OF ANY PROGRAMS, DATA, OR REMOVABLE STORAGE MEDIA. ORACLE IS NOT RESPONSIBLE FOR THE RESTORATION OR REINSTALLATION OF ANY PROGRAMS OR DATA OTHER THAN SOFTWARE INSTALLED BY ORACLE WHEN THE PRODUCT IS MANUFACTURED.**

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 Oracle's written consent (including modification or removal of the Oracle serial number tag on the Hardware);
- b. maltreated or used in a manner other than in accordance with the relevant documentation;
- c. has been subjected to abnormal physical or electrical stress, misuse, negligence or accident;
- d. is provided for beta, evaluation, testing or demonstration purposes for which Oracle does not receive a payment of full purchase price;
- e. repaired by any third party in a manner which fails to meet Oracle's quality standards;
- f. improperly installed by any party other than Oracle or an authorized Oracle certified installation partner;
- g. used with equipment or software not covered by an Oracle warranty, to the extent that the problems are attributable to such use;
- h. relocated, to the extent that problems are attributable to such relocation;
- i. used directly or indirectly in supporting activities prohibited by U.S. or other national export regulations;
- j. used by parties appearing on the then-current U.S. export exclusion list;
- k. relocated to countries subject to U.S. trade embargo or restrictions;
- l. used remotely to facilitate any activities for parties or in the countries referenced in 7.6(h) and 7.6(i) above; or
- m. purchased from any entity other than Oracle or an Oracle authorized reseller.

7.7 The Talari Hardware Warranty does not apply to normal wear of the Hardware or media. The Talari 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 45 days written notice, Oracle may audit Your use of the Operating System and Integrated Software. You agree to cooperate with Oracle's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Your normal business operations. You agree to pay within 30 days of written notification any fees applicable to Your use of the Operating System and Integrated Software in excess of Your license rights. If You do not pay, Oracle can end (a) Service Offerings (including technical support) related to the Operating System and Integrated Software, (b) licenses of the Operating System and Integrated Software ordered under this Schedule H and related agreements and/or (c) the Master Agreement. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

## **9. ORDER LOGISTICS**

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

9.1.1 You are responsible for installation of the Hardware unless You purchase installation services from Oracle for that Hardware.

9.1.2 Oracle will deliver the Hardware to the delivery address specified by You on Your purchasing document or when Your purchasing document does not indicate a ship to address, the location specified on the order.



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

9.1.4 Oracle may make and invoice You for partial deliveries.

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

9.1.6 Oracle will use its reasonable commercial efforts to deliver the Hardware within a timeframe that is consistent with Oracle's past practices regarding the amount and type of Hardware that You have ordered.

## **9.2 Transfer of Title**

Title to the Hardware will transfer upon delivery.

## **9.3 Territory**

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

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

9.4.1 In entering into payment obligations under an order, You agree and acknowledge that You have not relied on the future availability of any Hardware, Program or updates. However, (a) if You order 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 You under an order and the Master Agreement.

9.4.2 Hardware fees are invoiced as of shipment.

9.4.3 Hardware-related Service Offering fees are invoiced in advance of the Hardware-related Service Offering performance; specifically, technical support fees are invoiced annually in advance. 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.

9.4.4 In addition to the prices listed on the order, Oracle will invoice You for any applicable freight charges or applicable taxes, and You will be responsible for such charges and taxes notwithstanding any express or implied provision in the "Incoterms", as specified in Your Order.

## SCHEDULE P - Program

This Program Schedule (this "Schedule P") is a Schedule to the General Terms to which this Schedule P is attached. The General Terms and this Schedule P, together with the attached Schedule H and Schedule S, 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 Oracle's acceptance of Your order, You have 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 You ordered solely for Your internal business 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, You have the non-exclusive, non-assignable, royalty free, perpetual, limited right to use for Your internal business operations anything developed by Oracle and delivered to You under this Schedule P ("deliverables"); however, certain deliverables may be subject to additional license terms provided in the order.

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

2.4 You may make a sufficient number of copies of each Program for Your 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 You in Program Documentation, readmes or notice files in connection with such third party technology. Third party technology will be licensed to You either under the terms of the Master Agreement or, if specified in the Program Documentation, readmes or notice files, under Separate Terms. Your 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 You under the terms of the Master Agreement.

If You are permitted under an order to distribute the Programs, You 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 You 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, Your rights to the Programs are solely limited to the rights granted in Your order.

3.2 You 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 you have 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.

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**

You may order trial Programs, or Oracle may include additional Programs with Your order which You may use for trial, non-production purposes only. You may not use the trial Programs to provide or attend third party training on the content and/or functionality of the Programs. You have 30 days from the Commencement Date to evaluate these Programs. To use any of these Programs after the 30 day trial period, You must obtain a license for such Programs from Oracle or an authorized reseller. If You decide not to obtain a license for any Program after the 30 day trial period, You will cease using and promptly delete any such Programs from Your 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 the annual Talari support services You 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 the Talari Support Policies in effect at the time the support services are provided. You agree 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 Talari 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. You should review the policies prior to entering into the order for the applicable technical support services. The current version of the Talari Support Policies for Talari support services is attached to this order as Exhibit A.

5.2 Talari support services acquired with Your order may be renewed annually and, if You renew Talari support services for the same number of licenses for the same Programs, for the first and second renewal years the fee for Talari support services will not increase by more than 5% over the prior year's fees. If Your order is fulfilled by an authorized reseller, the fee for Talari support services for the first renewal year will be the price quoted to You by Your authorized reseller; the fee for Talari support services for the second renewal year will not increase by more than 5% over the prior year's fees.

5.3 If You decide to purchase technical support for any Program license within a license set, You are required to purchase technical support at the same level for all licenses within that license set. You may desupport a subset of licenses in a license set only if You agree 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. A license set consists of (i) all of Your licenses of a program, including any options; and (ii) all of Your licenses of a program that share the same source code. If You decide not to purchase technical support, You may not update any unsupported Program licenses with new versions of the Program.

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

In addition to technical support, You may order a limited number of Program-related Service Offerings under this Schedule P. You agree to provide Oracle with all information, access and full good faith cooperation reasonably necessary to enable Oracle to deliver these Service Offerings and You will perform the actions identified in the order as Your responsibility. If while performing these Service Offerings Oracle requires access to another vendor's products that are part of Your system, You will be responsible for acquiring all such products and the appropriate license rights necessary for Oracle to access such products on Your behalf. Service Offerings provided may be related to Your license to use Programs owned or distributed by Oracle which You acquire under a separate order. The agreement referenced in that order shall govern Your use of such Programs.

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

7.1 Oracle warrants that a Program licensed to You will operate in all material respects as described in the applicable Program Documentation for a period of 90 days after delivery (i.e., via physical shipment or electronic download). You must notify Oracle of any Program warranty deficiency within 30 days 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. You must notify Oracle of any technical support service or Program-related Service Offerings warranty deficiencies within 30 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, YOUR 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, YOU MAY END YOUR PROGRAM LICENSE AND RECOVER THE FEES YOU PAID TO ORACLE FOR THE PROGRAM LICENSE AND ANY UNUSED, PREPAID TECHNICAL SUPPORT FEES YOU HAVE 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, YOU MAY END THE DEFICIENT PROGRAM-RELATED SERVICE OFFERINGS AND RECOVER THE FEES YOU 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 45 days written notice, Oracle may audit Your use of the Programs. You agree to cooperate with Oracle's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Your normal business operations. You agree to pay within 30 days of written notification any fees applicable to Your use of the Programs in excess of Your license rights. If You do not pay, Oracle can end (a) Program-related Service Offerings (including technical support), (b) Program licenses ordered under this Schedule P and related agreements and/or (c) the Master Agreement. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

## **9. ORDER LOGISTICS**

### **9.1 Delivery and Installation**

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

9.1.2 Oracle may make available to You for electronic download at the electronic delivery web site located at the following Internet URL: <https://www.talari.com/support/support-portal/> the Program(s) listed in the order. Through the Internet URL, You can access and electronically download to Your location the latest production release as of the effective date of the applicable order of the Program(s) and related Program Documentation for the Program(s) listed. Provided that You have continuously maintained technical support for the listed Program(s), You may continue to download the Program(s) and related Program Documentation. Please be advised that not all Program(s) are available on all Hardware/Operating System combinations. You acknowledge that Oracle is under no further delivery obligation with respect to Program(s) under the applicable order, electronic download or otherwise.

9.1.3 If ordered, Oracle will deliver the tangible media to the delivery address specified on the applicable order. You agree to pay applicable media and shipping charges.

### **9.2 Territory**

The Programs shall be used in the country/countries specified in the order.

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

9.3.1 In entering into payment obligations under an order, You agree and acknowledge that You have not relied on the future availability of any Program or updates. However, (a) if You order 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 You 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 in advance of the Program-related Service Offering performance; specifically, technical support fees are invoiced annually in advance. 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, Oracle will invoice You for any applicable shipping charges or applicable taxes and You will be responsible for such charges and taxes.

## Schedule S – Services

This Services Schedule (this "Schedule S") is a Schedule to the General Terms to which this Schedule S is attached. The General Terms and this Schedule S, together with the attached Schedule H and Schedule P, 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 you have ordered under this Schedule S.
- 1.2 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, You have the non-exclusive, non-assignable, royalty free, perpetual, limited right to use for Your internal business operations anything developed by Oracle and delivered to You under this Schedule S ("deliverables"); however, certain deliverables may be subject to additional license terms provided in the order.
- 2.2 You may allow Your agents and contractors (including, without limitation, outsourcers) to use deliverables for You internal operations and You are responsible for their compliance with the General Terms and this Schedule S in such use.
- 2.3 Services provided may be related to Your license to use Products owned or distributed by Oracle which You acquire under a separate order. The agreement referenced in that order shall govern Your 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. You must notify Oracle of any warranty deficiencies within 90 days from performance of the deficient Services.

**3.2 FOR ANY BREACH OF THE WARRANTY, YOUR 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, YOU MAY END THE DEFICIENT SERVICES AND RECOVER THE FEES YOU 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.**

## Talari Support Services Policies

### 1. PRODUCT SUPPORT

1.1 Services and Support Package. Subject to the terms and conditions of the Agreement, including all fees due when Oracle or its authorized channel partner (as applicable), Oracle will provide to You the Talari support services (“**Services**”), as described in Appendix 1.

1.2 Covered Products. Oracle will provide the Services solely for the eligible products set forth in **Your order** that are purchased by or licensed to You from Oracle (“**Covered Products**”).

1.3 Service Modifications. Oracle reserves the right to add, change, or delete available Services for certain hardware or software platforms and configurations in its reasonable discretion upon sixty (60) days prior written notice so long as (a) such changes do not materially reduce the overall level of Services contracted for by You hereunder; and (b) any such change applies generally to all customers with valid contracts for the same Service.

### 2. MAINTENANCE RELEASES, SOFTWARE UPDATES, AND SOFTWARE UPGRADES

#### 2.1 Maintenance Releases.

- (a) A “**Maintenance Release**” is a set of related or unrelated bug fixes that Oracle makes generally available to customers who have purchased a Support Package that includes Maintenance Release Services. Maintenance Releases are typically labeled with a change in the version number after the second decimal (e.g. 1.0.P1 to 1.0.P2), although not every individual change may be deemed to be a Maintenance Release.
- (b) For as long as Maintenance Release Service is in effect under the Support Package selected by You (as specified in **Appendix 1**), Oracle will make available Maintenance Releases for the version of the Oracle software included in or with Covered Products (“**Covered Software**”), until the release of the next Software Upgrade. Maintenance Releases will be deemed Covered Software upon release to You, and Your access and use of Maintenance Releases will be subject to the same license terms as applicable for the Covered Software.

#### 2.2 Software Updates.

- (a) “**Software Updates**” are improvements, bug fixes, error corrections, and patches that may include minor new features but not architectural changes or major new features, which Oracle makes generally available to customers of a Support Package that includes Software Update Service. Software Updates are typically labeled with a change in the version number after the first decimal (e.g. 1.0 to 1.1), although not each change may be deemed a Software Update. Software Updates do not include new features, functions, or applications that may be released as part of a Software Upgrade or that may require new hardware.
- (b) If Software Update Service is in effect under the Support Package selected by You (as set forth in **Appendix 1**) Oracle will make available Software Updates for the Covered Software, until the next Software Upgrade. Software Updates will then be deemed Covered Software, and Your access and Your use of the Software Updates will be subject to the same license terms as applicable for the Covered Software.

#### 2.3 Software Upgrades.

- (a) “**Software Upgrades**” are new software releases, versions, modules, or feature sets that may include new features, architectural changes, and quality improvements that allow the You to upgrade from one version of Oracle’s software to the next version (e.g., 1.0 to 2.0).
- (b) Software Upgrades will be made available to You for all Covered Products under a current Support Package. Software Upgrades will then be deemed Covered Software, and Your access and Your use of the Software Upgrades will be subject to the same license terms as applicable for the Covered Software. Notwithstanding the foregoing, “Software Upgrade” does not include new Oracle software products (“**New Products**”). When Oracle releases new software products, You may obtain a license to and Support Package for such new software products under Oracle’s then-current terms and fees for such products and services. A “New Product” is an entirely distinct product or a new version of the Oracle software which contains such substantial changes to the features, functionality, or performance as compared to the previous version where such version would reasonably be expected to be commercialized as a separate SKU and charged for as such, per software industry norms.

2.4 Documentation. Oracle will make available to You all published revisions or corrections to the documentation for the Covered Products that Oracle makes generally available to customers who have ordered Services for the Covered Products. This documentation will be made available online via password at the Oracle knowledgebase on Oracle's support web site for Talari Products and Services, currently located at [www.talarinetworks.com/support](http://www.talarinetworks.com/support) (the "Web Site").

### 3. TECHNICAL SUPPORT AND ERROR CORRECTIONS

3.1 Technical Support Center. During the hours stated in **Appendix 1** for the applicable Support Package ("**Support Hours**"), Oracle will use commercially reasonable efforts to provide You with assistance to diagnose and resolve technical problems with the Covered Products (whether hardware or software based) through the Web Site, by e-mail, by telephone (at the e-mail address and telephone number indicated on the Web Site), and by any other means specified by Talari.

3.2 Talari Support Web Site. Oracle will issue You a unique username and password to access the Web Site. You will use the Web Site only for supporting its authorized use of the Covered Products and Covered Software. You will maintain reasonable password security with respect to the username and password issued for the Web Site, and will immediately report to Oracle any breach of security. Oracle will have the right to terminate or suspend, in its discretion, Your access to the Web Site in the event of any security breach. All software that is available for download on the Web Site will be licensed to You in accordance with any license terms stated on the Web Site for the software, and the terms of the parties' license agreement for the Covered Products. You acknowledge that Oracle will be entitled to track usage and other statistics on the Web Site, which information may be used by Oracle as reasonably necessary to improve its services

3.3 Error Corrections. You may report to Oracle any failure of the Covered Products to substantially conform to their published specifications ("**Error**"). In accordance with this Section 3.3, Oracle will use commercially reasonable efforts to correct or minimize the adverse effect of any reproducible and demonstrable Error reported to Oracle by You in a manner commensurate with the severity of the Error.

### 4. HARDWARE REPLACEMENT

4.1 Failure Analysis. Oracle will, at its option, repair or replace any Covered Product that fails during the term of this Agreement at no cost to You, provided that You contact Oracle's technical support center to report the failure and complies with Oracle's return policies. Oracle reserves the right to examine promptly any allegedly non-conforming Covered Product and perform a failure analysis to determine if the alleged non-conformance (a) is a result of defective materials or workmanship (in which case the remedies set forth herein shall apply), (b) does not exist, (c) results from issues external to the Covered Products such as problems with Your network or systems, or (d) was caused by improper use or installation or damage in transit or while in the control of You (in which case You shall have no right to any remedies hereunder). Upon receipt of Your written notification of failure, Oracle and You shall promptly exchange all relevant data reasonably necessary to determine the root cause of the alleged non-conformance and cooperate in good faith to establish a corrective action plan. If Oracle determines that the non-conformance was due to defective materials or workmanship, Oracle will issue a Return Material Authorization ("RMA") for the non-conforming Products, and You will return the non-conforming unit or units to Oracle's designated facility in accordance with the RMA procedures outlined in Section 4.2 below.

4.2 RMA. Covered Products returned to an authorized Oracle agent must be pre-authorized by Oracle with an RMA number marked on the outside of the package, and sent prepaid, insured and packaged appropriately for safe shipment. Only packages with RMA numbers written on the outside of the shipping carton and/or the packing slips and shipping paperwork will be accepted by Oracle's authorized agent's receiving department. All other packages will be rejected. A replacement Product will be shipped to You following confirmation of the failure of the original Covered Product within the timeframe specified on Appendix 1 for Your particular Support Package. You will return the failed Covered Product to Oracle's authorized agent under the RMA number issued by Oracle's authorized agent upon receipt of the replacement. Oracle may invoice You for any failed Covered Products (a) with respect to which the damage to such Covered Products is attributable to actions taken by You or any of Your agents (including but not limited to the categories set forth in Section 5.3 -- "Restrictions" below); or (b) not returned within ten (10) days of shipment of the replacement unit(s). Title to any returned Covered Products will transfer to Oracle upon receipt. Oracle will be responsible for all freight charges for returned Covered Products provided You use a Oracle-designated carrier. Oracle will replace defective media or documentation or, at its option, undertake reasonable efforts to modify the software to correct any substantial non-conformance with the specifications.

### 5. LIMITATIONS ON SERVICES

5.1 Services Not Covered. Notwithstanding anything to the contrary in this Agreement, the Services do not include the correction of, and Oracle will have no obligation, responsibility, or liability with respect to, any errors, defects, or other problems caused by: (a) Your failure to implement any Maintenance Release or Software Update

made available to You by Oracle; (b) changes by You or third parties to an operating system, network configuration, or environment that adversely affect the Covered Products; (c) any alterations or modifications of, or additions to, the Covered Products made by parties other than Oracle; (d) use of the Covered Products in a manner for which they were not designed or other than as specified in the applicable documentation or specifications; (e) the combination, use, or interconnection of the Covered Products with other software or hardware not supplied or not approved by Oracle; (f) use of the Covered Products on or with an unsupported hardware or software platform; (g) abnormal usage or misuse of the Covered Products, including, but not limited to, accident, fire, water damage, earthquake, lightning, other acts of nature, and other causes external to the Covered Products; (h) installation or maintenance of wiring, circuits, electrical conduits, or devices external to the Covered Products; (i) Your failure to provide and continually maintain adequate electrical power, air conditioning, and humidity controls in accordance with Covered Product specifications; (j) extraordinary wear or deterioration of the Covered Products while under Your control; (k) removal of the Covered Products from the location originally specified by You or reinstalled without the prior written approval of Oracle; (l) Your or a third party's negligence; (m) any breach by You of this Agreement; (n) board level repairs made to the Covered Products, other than by Oracle, unless the board repairs were approved in advance in writing by Oracle; or (o) Your refusal or failure to implement any Error correction or replacement part made available to You by Oracle. Additionally, Oracle will have no obligations with respect to Section 4 for any Covered Product in which the tamper label has been altered or the hardware cover has been opened.

5.2 Limitations on Support and Error Corrections. The Services to be provided under Sections 3.1, 3.3, and 4 are limited to addressing problems that are demonstrable and reproducible. Oracle makes no commitment, representation, or guaranty regarding the amount of time it will take to diagnose or resolve a problem once it is brought to Oracle's attention. Except as expressly stated in this Agreement, Oracle will have no obligation to correct errors in or failures of any Covered Products.

5.3 Restrictions. Services provided by Oracle under this Agreement are limited to the Covered Product and are contingent upon Your proper use of the Covered Product in the application for which it was designed. Oracle will not be obligated to provide any service or to correct any malfunction, damage or other problem if the Covered Product: (a) has been altered, except by Oracle or an Oracle-designated representative or in accordance with Oracle instructions, (b) has not been installed, operated, repaired, or maintained in accordance with Oracle instructions, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence or accident, (d) has been operated outside of the environmental specifications for the Covered Product or (e) is related to configuration of Your network beyond that necessary to the use or installation of Covered Products except as may be provided in the Service Level Agreement in Exhibit A. Oracle reserves the right to limit or terminate development support (including error correction services) of any Covered Product version one (1) year after the date of release of a subsequent Covered Product version. The foregoing restriction shall apply even if You elect to install a Covered Product version other than the then-currently shipping version of the Covered Product.

5.4 Non-Supported Applications. Oracle specifically disclaims any and all support or repair obligations with respect to any application that has not undergone feature-set approval and Oracle's QA process for feature integration (a "Non-Supported Application"). You acknowledge that if a new support case is created in accordance with Oracle's support process where the issue is suspected to be, or is found to be, attributable to a Non-Supported Application, Oracle may elect one of the following two options, at its sole discretion:

- (i) Remove the Non-Supported Application, following consultation with You, in order to continue to resolve the issue; or
- (ii) Cease work on the case and recommend that You remove the Non-Supported Application from the Covered Product in order to continue toward resolution.

If the Covered Product continues to function improperly or if the issue persists due to the Non-Supported Application, Oracle will cease all support efforts on the case. The parties will then cooperate to develop a mutually satisfactory "for-fee" arrangement for continuing work on the issue.

## 6. YOUR RESPONSIBILITIES

Oracle's obligation to perform the Services is conditioned on the following

6.1 Maintenance. You will: (a) maintain the installation site in accordance with the applicable specifications for the Covered Products; (b) maintain the Covered Products and the operating environment for the Covered Products in good working order and in accordance with the specifications in the documentation for the Covered Products; (c) use the Covered Products in a proper manner by competent, trained personnel; and (d) implement all Software Updates, Maintenance Releases, and Error corrections and workarounds in a timely manner to be at the most current release of the product (or at most one release back).

6.2 Remote Access. At Oracle's request, You will allow Oracle remote access to the Covered Products to enable Oracle to perform remote diagnosis and service subject to Oracle's execution of a non-disclosure agreement mutually acceptable to the parties.



6.3 Notification of Errors. You will notify Oracle promptly regarding Errors with reasonable detail so that Oracle can reproduce the Error. You will provide a complete description of the Error, including, if applicable, a description of any physical indicator of injury, such as a LED, alarm, or event on management station on the Covered Products, system log files or any other reasonable information requested by Oracle to diagnose reproducible Errors.

6.4 Cooperation. You will provide Oracle with reasonable cooperation and assistance and with information as is reasonably requested by Oracle in connection with Oracle's performance of the Services. Any information provided by You to Oracle may be freely used by Oracle for future versions of the Covered Products or otherwise without restriction.

6.5 Designated Contact. You will designate a primary contact and an alternate contact in connection with the Services. These contact persons will promptly notify Oracle of Errors, provide the information set forth in Section 6.3, and perform additional duties, including but not limited to system restarts, logging, and running of operational readiness tasks, as may be reasonably requested by Oracle

6.6 Data. You will be responsible for maintaining back-up copies of all data residing in or relying in any way on the Covered Products. Oracle will have no liability or responsibility for the loss of any data during the provision of the Services.

## Appendix 1 - Support Services

The table below provides the details of the Talari Support Services, which are effective for the Covered Products as detailed on Your order in relation to Your designated deployment sites.

For the APN WANSimulator™ product, Oracle provides only limited Support Services as set forth here in Appendix 1.

Training, installation and professional services must be purchased separately and are subject to separate fees from the Support Services fees.

### Support Services

- Service hours: 24 hours/7 days per week
- Case submission:
  - Email  
support@talari.com
  - Phone (international numbers are to arrange callback at Oracle expense)  
U.S. toll-free: 855-628-4559  
International: 919-424-9002
- Hardware and software replacement
  - Advance replacement option<sup>1</sup>
- Maintenance releases labeled as 2.0.P1, 2.0.P2, etc.<sup>2</sup>
- Software updates labeled as 2.1, 2.2, etc.<sup>3</sup>
- Software maintenance and upgrade assurance

### Support Terms

(A) Covered Releases. Services are provided for the then-current release, and two previous Software Updates. If a new version of the Covered Product is released, Oracle will support the previous two Software Updates at least for one year.

(B) Error Corrections. Oracle will correct Errors in the Covered Product if (i) You provide sufficient information to reproduce the Error within the supported environment; and (ii) Oracle is able to reproduce the Error. Oracle will then use commercially reasonable efforts to address the Error within the following time frames:

(1) For Critical Errors, Oracle will acknowledge receipt of the report within one hour, and will use commercially reasonable efforts to create a temporary solution within 24 hours or less and a final solution in the next Maintenance Update.

(2) For Non-Critical Errors, Oracle will acknowledge receipt of the report within 4 hours, and will use commercially reasonable efforts to create a temporary solution within 2 workdays and a final solution in the next Maintenance Update.

(3) For Minor Errors, Oracle will create a final solution within a reasonable time.

Oracle will assign a tracking number to each Error report. Errors may be reclassified by mutual agreement or by Oracle in its reasonable discretion with notification to Your technical liaison. Oracle reserves the right to determine the timing for the release of the next Maintenance Update; that a reported Error is not due to the Covered Product or otherwise under Oracle control; or that an Error cannot or should not be corrected for technical or resource reasons such as unreasonable cost in terms of time, resources,

or money as compared to the relative seriousness of the Error.

Service Plan	Talari Support
Support Hours	24 hours/7 days per week
APN Software™ & APN AWARE Management Software™	Monday – Friday (non-holiday) Hours: 9 am to 5 pm US ET Renewable at Oracle's sole discretion
Case Submission	24-Hour by email: <a href="mailto:support@talari.com">support@talari.com</a> 24 hours/7 days per week by phone: U.S. toll-free: 855-628-4559 International: 919-424-9002
APN Software™ & APN AWARE Management Software™	Case submission exclusively at support@talari.com
Hardware Repair/Replacement	Yes, at no cost while equipment is covered by hardware warranty or under service agreement; thereafter, additional fees apply
Advance Replacement <sup>1</sup>	Oracle will use its best commercially reasonable efforts to ship the same business day so long as Oracle is able to confirm the failure of the original Covered Product and approve the RMA prior to 3 pm US ET; otherwise, it will be shipped the next business day.
<b>Software Maintenance and Upgrade Assurance</b>	
Maintenance Releases labeled as 2.0.1, 2.0.2, etc. <sup>2</sup>	Yes, while equipment is under service agreement
Software Updates labeled as 2.1, 2.2, etc. <sup>3</sup>	Yes, while equipment is under service agreement
APN Software™ & APN AWARE Management Software™	Software updates and upgrades are only provided to You on an "as available" basis at Oracle's sole discretion
<b>Customer Services</b>	
Access to Talari Networks Training Services	Yes, while equipment is under service agreement (additional fees apply)
Access to Talari Network Professional Services	Yes, while equipment is under service agreement (additional fees apply)
APN WANSimulator™	Oracle does not support the APN WANSimulator™ product used in a production environment. Lab testing and demonstration use only

<sup>1</sup> Advance Replacement means shipping new product to the customer before receiving the problem unit or part, and is further described in Section 4.

<sup>2</sup> Maintenance Release is defined in Section 2.1.

<sup>3</sup> Software Update is defined in Section 2.2. Software Updates do not include new features, functions, or applications that may be released as part of a Software Upgrade (defined in Section 2.3) or that may require new hardware.

## Appendix 2 - Severity Levels

Oracle will assign a severity level for each technical problem based on Your description of the problems.

### Severity Levels

Severity	Definition
Critical	A critical problem requiring immediate resolution. Problem may cause loss of data and/or restrict data availability.
Non-Critical	A non-critical problem that has a material effect on Your operations but for which an acceptable workaround exists.
Minor	A minor condition or request that has no significant effect on Your operations.