ORACLE	**ORACLE OPEN SOURCE SUPPORT SERVICES AGREEMENT** **(for Oracle Linux, Oracle VM and Oracle Verrazzano)**

Oracle Agreement Reference	(TO BE COMPLETED BY ORACLE)

This Oracle Open Source Support Services Agreement (this "Agreement") is between {insert Local Oracle Subsidiary Name} ("Oracle", "we," "us," or "our") and the individual or entity identified below in the signature block ("You"). This Agreement sets forth the terms and conditions that govern orders placed under this Agreement.

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 Covered Programs (available at http://www.oracle.com/us/support/library/enterprise-linux-indemnification-069347.pdf) for which You have ordered Oracle Linux Service Offering(s) and/or Oracle VM Service Offering(s), including any related program documentation and patches and bug fixes acquired through such Oracle Linux Service Offerings and/or Oracle VM Service Offering(s).

1.2   "**Oracle Linux Service Offering(s)**", "**Oracle VM Service Offering(s)**" and "**Oracle Verrazzano Service Offering(s)**" refer to Oracle Linux, Oracle VM and Oracle Verrazzano support services respectively as defined under the Oracle Open Source Support Policies referenced in Section 3.4 below.

1.3   "**Service Offering(s)"** means the Oracle Linux Service Offering(s), the Oracle VM Service Offering(s), and the Oracle Verrazzano Service Offering(s).

1.4   "**Support Term**" is defined as the duration for which You have acquired the applicable Service Offering(s).

1.5   "**Program Documentation**" refers to the program user manual and program installation manuals. Program Documentation may be delivered with the Oracle Linux, Oracle VM and Oracle Verrazzano programs. You may access the documentation online at http://oracle.com/documentation.

2.   AGREEMENT TERM

Orders may be placed under this Agreement for five years from the Effective Date.

3.   SERVICE OFFERING(S)

3.1   Upon Oracle's acceptance of Your order, You have the limited right to receive the applicable Service Offering(s) solely for Your business operations and subject to the terms of this Agreement including availability rules and metric definitions set forth in the order and the Program Documentation.

3.2   For purposes of the order, Service Offering(s) consists of Oracle's technical support services level You may have ordered from Oracle or an authorized reseller for the Service Offering(s). If ordered, the Service Offering(s) (including initial year and all subsequent years) are provided under the Oracle Open Source Support Policies in effect at the time the Service Offering(s) are provided. The Oracle Open Source Support Policies, which are incorporated in this Agreement, 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 the Service Offering(s) have been paid. Service Offering(s) are available for certain systems, and may be subject to additional restrictions as set forth in the Oracle Open Source Support Policies. You should review the Oracle Open Source Support Policies prior to entering into the order for the applicable Service Offering(s). You may access the current version of the Oracle Open Source Support Policies at http://oracle.com/contracts.

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

3.4   The Service Offering(s) provided under this Agreement are in support of licenses You acquired separately. All patches, bug fixes and other code received as part of the Service Offering(s) under this Agreement shall be provided under the applicable license terms for the Oracle Linux, Oracle VM and/or Oracle Verrazzano program(s) that You have downloaded and/or installed. The Service Offering(s) may also include the right to use certain additional software or tools during the Support Term for which

fees for Service Offering(s) have been paid. The license terms for any such software or tools, as well as any limitations associated with them, will be referenced in the Program Documentation.

4. ORACLE LINUX AND ORACLE VM INDEMNIFICATION

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

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

4.2   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 30 days notice to You, terminate Your right to receive indemnification for Your further use of the Covered Programs and refund any unused, prepaid service fees You have paid for the Covered Programs.

4.3   Notwithstanding the above, Oracle will not defend or indemnify You in connection with claims, damages, liabilities, costs or expenses arising out of, or caused by, or related to: (a) Your distribution of the Covered Programs; (b) Your alteration of the Covered Programs; (c) Your use of a version of the Covered Programs which has been superseded, if the infringement claim could have been avoided by using the current version of the Covered Programs; (d) Your use of the Covered Programs outside the scope of use identified in the user documentation or the Oracle Open Source Support Policies; (e) Your use of the Covered Programs when You were not a subscriber to the Oracle Linux Service Offering(s) and/or Oracle VM Service Offering(s); (f) any information, design, specification, instruction, software, data, or material not furnished by Oracle; (g) the combination of any Covered Programs with any products or services not provided by Oracle; or (h) Your claim, lawsuit, or action against a third party. For avoidance of doubt, this section 4 specifically excludes, and no indemnification is provided for, the Verrazzano programs. **This section provides Your exclusive remedy for any infringement claims or damages, liabilities, costs or expenses.**

5. FEES AND TAXES

5.1   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 Service Offering(s) You ordered, except for taxes based on Oracle's income.

5.2 You understand that You may receive multiple invoices for the Service Offering(s) You ordered. Invoices will be submitted to You pursuant to Oracle's Invoicing Standard Policy, which may be accessed at http://oracle.com/contracts.

5.3 Once placed, Your order shall be non-cancelable and the sums paid nonrefundable, except as provided in this Agreement.

5.4 Service Offering(s) fees are invoiced in advance of the performance of the Service Offering(s); specifically, Service Offering(s) fees are invoiced annually in advance. The period of performance for all Services Offering(s) is effective upon the effective date of Your order.

5.5 If an order for a Service Offering(s) is for a Support Term that is for multiple years, You are required to pay the fees covering such multiple years in advance of the start of such Support Term.

6. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES

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

6.2   **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.**

6.3   **ORACLE DOES NOT GUARANTEE THAT ANY PROGRAMS ASSOCIATED WITH THE SERVICE OFFERING(S) (INCLUDING BUT NOT LIMITED TO THE ORACLE LINUX, ORACLE VM OR ORACLE VERRAZZANO PROGRAMS) WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT ORACLE WILL CORRECT ALL PROGRAM ERRORS. FOR ANY BREACH OF THE ABOVE WARRANTIES, YOUR EXCLUSIVE REMEDY, AND ORACLE'S ENTIRE LIABILITY, SHALL BE**

THE REPERFORMANCE OF THE DEFICIENT SERVICE OFFERING(S), OR IF ORACLE CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALLY REASONABLE MANNER, YOU MAY END THE RELEVANT SERVICE OFFERING(S) AND RECOVER THE FEES PAID TO ORACLE FOR THE DEFICIENT SERVICE OFFERING(S).

7. TERMINATION

7.1 If either of us breaches a material term of this 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 this Agreement. If Oracle terminates this 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 the Service Offering(s) received under this 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.

7.2 If You have used a contract with Oracle or an affiliate of Oracle to pay for the Service Offering(s) received under this Agreement and You are in default under that contract, You may not use the Service Offering(s) that are subject to such contract.

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

8. NONDISCLOSURE

8.1 By virtue of this 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 this Agreement. Confidential Information shall be limited to the terms and pricing under this 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. Oracle 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 this Agreement. Nothing shall prevent either party from disclosing the terms or pricing under this Agreement or orders submitted under this Agreement in any legal proceeding arising from or in connection with this Agreement or disclosing the Confidential Information to a governmental entity as required by law.

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

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

9. ENTIRE AGREEMENT

9.1   You agree that this Agreement and the information which is incorporated into this 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 Service Offering(s) ordered by You and supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such Service Offering(s).

9.2   It is expressly agreed that the terms of this 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 Service Offering(s) ordered. In the event of any inconsistencies between the terms of an order and this Agreement, the order shall take precedence. This 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 You and of Oracle. Any notice required under this 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 THIS AGREEMENT OR YOUR ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES YOU PAID ORACLE UNDER THIS AGREEMENT, AND IF SUCH DAMAGES RESULT FROM DEFICIENT SERVICE OFFERING(S), SUCH LIABILITY SHALL BE LIMITED TO THE FEES YOU PAID ORACLE FOR THE DEFICIENT SERVICE OFFERING(S) GIVING RISE TO THE LIABILITY. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT ORACLE'S ORACLE LINUX AND ORACLE VM INDEMNIFICATION OBLIGATION OR YOUR EXCLUSIVE REMEDY FOR ANY INFRINGEMENT CLAIMS OR DAMAGES, LIABILITIES, COSTS OR EXPENSES UNDER SECTION 4 (ORACLE LINUX AND ORACLE VM INDEMNIFICATION) ABOVE.

11. EXPORT

Export laws and regulations of the United States and any other relevant local export laws and regulations may apply to the Service Offering(s). You agree that such export control laws govern Your use of any Service Offering(s) deliverables provided under this 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, program and/or materials resulting from Service Offering(s) (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

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 Offering(s) 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 Service Offering(s) ordered or delivered.

13. GOVERNING LAW AND JURISDICTION

This Agreement is governed by the laws 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 this Agreement. *{LDA: Do not localize this section. Modifications to governing law/jurisdiction require approval on a deal by deal basis}.*

14. NOTICE

If You have a dispute with Oracle or if You wish to provide a notice under section 4 (Oracle Linux and Oracle VM Indemnification) of this Agreement, or if You become subject to insolvency or other similar legal proceedings, You will promptly send written notice to: {insert local Oracle subsidiary name and appropriate mailing address –ok to include Attn. General Counsel or something similar}.

15. ASSIGNMENT

You may not assign this Agreement or give or transfer the Service Offering(s) or an interest in them to another individual or entity. If You grant a security interest in the Service Offering(s), the secured party has no right to use or transfer those Service Offering(s) and if You decide to finance Your acquisition of any Service Offering(s), You will follow Oracle's policies, regarding financing which are at http://oracle.com/contracts. The foregoing shall not be construed to limit the rights You may otherwise have with respect to the Linux operating system, third party technology or separately licensed third party technology licensed under open source or similar license terms.

16. AUDIT

Upon 45 days written notice, Oracle may audit Your use of the Service Offering(s) to ensure Your use of the Service Offering(s) is in compliance with the terms of the applicable order and the Agreement. Any such audit shall not unreasonably interfere with Your normal business operations.

You agree 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 this Agreement.

If the audit identifies non-compliance, You agree to remedy (which may include, without limitation, the payment of any fees applicable to Your use of the Service Offering(s) in excess of Your service rights) such non-compliance within 30 days of written notification of that non-compliance. If You do not remedy the non-compliance, Oracle can end (a) Service Offering(s), (b) Oracle Open Source-related Service Offering(s), and/ or (c) this Agreement. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

17. SEGMENTATION

The purchase of Service Offering(s) or other service offerings, programs or products are all separate offers and separate from any other order. You understand that You may purchase Service Offering(s) or other service offerings, programs or products independently of any other order. Your obligation to pay under any order is not contingent on performance of any other service offerings or delivery of programs or products. You acknowledge that You have entered into the purchase without reliance on any financing or leasing arrangement with Oracle or its affiliate.

18. OTHER

18.1   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.

18.2   If any term of this 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 this Agreement.

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

18.4   Service Offering(s) 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 Service Offering(s) in such applications.

18.5   If requested by an authorized distributor on Your behalf, You agree Oracle may provide this Agreement to the authorized distributor to enable the processing of Your Order with that authorized distributor.

18.6   The Uniform Computer Information Transactions Act does not apply to this Agreement or orders placed under it. *{should be deleted outside of the U.S.}* 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 Service Offering(s) as an Oracle subcontractor in furtherance of an order placed under this Agreement and (ii) only to the same extent as Oracle would be responsible for the performance of Oracle resources under that order.

19. AGREEMENT EFFECTIVE DATE

The Effective Date of this Agreement is _____. (DATE TO BE COMPLETED BY ORACLE)

{insert Customer name}	{insert local Oracle Subsidiary Name}
Signature _____	**Signature** _____
Name _____	**Name** _____
Title _____	**Title** _____
Signature Date _____	**Signature Date** _____