

Oracle Terms of Service for Oracle Preconstruction Subcontractor Basic Cloud Service – Free

Last Updated: August 6, 2021

Oracle (“us,” “we,” or “our”) would like to welcome you (“you” or “your”) to our site (“Site”). These terms of service, including any terms and policies referenced in these terms (collectively, “Terms”) govern your access and use of our Site and Service (as defined below).

1. ACCEPTANCE

PLEASE READ THESE TERMS CAREFULLY. BY CLICKING THE “I ACCEPT” OR SIMILAR BUTTON TO WHICH THIS AGREEMENT IS LINKED OR ATTACHED OR OTHERWISE ACCESSING THE SITE OR SERVICE, YOU ARE AGREEING TO THESE TERMS.

If you are accepting these Terms on behalf of a company, you represent that you have the necessary authority to bind such company to these Terms, in which case the terms “you” or “your” shall refer to your company. The Service (as defined below) is only available to businesses such as incorporated organizations, sole traders and similar, and not for individual consumers. **If you do not agree with these Terms in their entirety, wish to use the Services in your capacity as a consumer or do not have the requisite authority to bind the company or organization on whose behalf you are entering into these Terms, you must not accept these Terms, and must immediately discontinue all use of the Site and Service.**

2. DESCRIPTION OF OUR SERVICE

A. General. Our Service consists of access to a cloud service through the use of our software (“Software”). For purposes of these Terms, the “Service” means and is limited to the free version of the Oracle Preconstruction Subcontractor Basic Cloud Service, Software, and any updates, modifications or derivatives of any of the foregoing that we make available to you under your Free Account (as defined below). The Service does not extend to or include any Third Party Services (defined below), any other Oracle products and services, any services, features or functionality associated with other services for which you have not paid and are not subscribed to, or any enhancements or updates that are not made available to you.

B. Free Account. You must register for an account on our Site (“Free Account”) to gain access to the Service. All information you submit when registering for your Free Account must be truthful and accurate. You may only register as yourself, unless you have the necessary authority to register on behalf of an organization or corporate entity that you represent. You are responsible for all activity that happens on or through your Free Account (whether or not authorized by you) including your Users’ activities. You may not share your Free Account or any Free Account login information and that of your Users with any third party. If you learn of any unauthorized use of your Free Account, you must notify us immediately. For the purposes of the Terms, your “Users” means those employees, contractors, and end users, as applicable, authorized by you or on your behalf to use the Services in accordance with the Terms.

Through your Free Account, you and your Users are granted the right to access and use the Service for free. You understand and acknowledge that the Service provided under a Free Account may be significantly limited in features and functionality and/or have substantial usage limits. Details of the features, functionality and usage limits of your Free Account are provided in the service description for the Service located at <http://www.oracle.com/contracts> and are subject to change at Oracle’s discretion pursuant to these terms. We may suspend, terminate, or discontinue your Free Account at any time and for any reason, in our sole discretion. ANY ACCESS OR USE OF THE SERVICE UNDER A FREE ACCOUNT AND INTERACTIONS, DEALINGS AND COMMUNICATION BETWEEN YOU OR YOUR USERS AND THE PARTICIPANTS WILL BE AT YOUR SOLE RISK AND RESPONSIBILITY. YOU

ACKNOWLEDGE THAT WE HAVE NOT VETTED, CONFIRMED THE IDENTITY OR ENDORSED ANY OF THE PARTICIPANTS AND WE DISCLAIM ALL LIABILITY TO YOU AND ANY THIRD PARTY WHATSOEVER IN RELATION TO (I) THE PARTICIPANTS AND ANY CONTENT, DATA OR INFORMATION PROVIDED BY THE PARTICIPANTS TO YOU THROUGH THE SERVICES OR OTHERWISE; (II) FOR THE PARTICIPANTS' ACTS AND OMISSIONS; OR (III) FOR ORACLE FOLLOWING THE GENERAL CONTRACTOR'S INSTRUCTIONS IN RELATION TO THE PROJECT, BID PACKAGE OR PROJECT DATA. YOU AGREE TO INDEMNIFY US AGAINST ANY CLAIM BY ANOTHER PARTICIPANT OR THIRD PARTY RELATED TO YOUR CONTENT OR YOUR USE OF THE SERVICES IN BREACH OF THE TERMS.

You may upgrade to a paid, premium subscription of the Service ("**Premium Subscription**") subject to you executing an order with Oracle. Upon execution of an order with Oracle for the Premium Subscription, (i) your usage of the Premium Subscription will be governed by the applicable ordering document and master agreement referenced therein; and (ii) these Terms will be terminated.

3. USE OF THE SERVICE

A. Requirements. Your use of and access to the Service is conditioned upon you meeting and continuing to meet the following requirements ("**Requirements**"), which you represent and warrant: (i) the person accepting the terms on your behalf is at least 18 years old and have the legal capacity to be bound by these Terms and bind the organization or corporate entity you represent to the Terms, or if you are a natural person, you are at least 18 years old and have the legal capacity to be bound by the terms; (ii) all information which you and your Users provide to us, including but not limited to information provided during registration and Your Content, is yours or within your right to use, and is and will remain accurate, complete and current; (iii) All websites, services and/or mobile applications (collectively, "**Your Applications**") for which you are accessing the Service are owned by you; and (iv) Neither you nor any of Your Applications are subject to any pending lawsuits, fines, or government or regulatory actions.

B. Permission to Use. Subject to your acceptance of and compliance with these Terms, satisfaction of the Requirements and registration for a Free Account, you shall be permitted to access and use only those features of the Service that are applicable to your Free Account on a non-exclusive, personal, non-transferable basis, solely in strict compliance with these Terms and all applicable laws. If permitted under your Free Account, you may allow your Users to use the Service solely on your behalf, provided that you must ensure that all your Users comply with these Terms. In order to use the Service you may be required to download our Software. Subject to these Terms, you shall have a non-exclusive, non-transferable, non-assignable, and limited right to use such Software solely in connection with the Service and in accordance with your Free Account. Some Software used in our Service may be offered under an open source license. In the event of a conflict between these Terms and any such open source license, the open source license will prevail with respect to that Software.

C. Restrictions. You are responsible for your and your Users use of the Service. You agree that you and your Users will not (and will not permit or encourage any third party to) directly or indirectly: (i) use the Service in any manner or for any purpose other than as expressly permitted by these Terms; (ii) license, sell, resell, sublicense, distribute, transfer, assign, rent, lease or commercially exploit the Service, or include the Service in any service bureau or outsourcing operation; (iii) frame or mirror any part of the Service; (iv) remove, obscure or alter any proprietary right notice on or in connection with the Service; (v) use the Service to store or transmit malicious code, files, scripts, agents, or programs, including without limitation viruses and Trojan Horses; (vi) interfere with or disrupt the integrity or performance of the Service; (vii) interfere with other users' use of the Service; (viii) use the Service to attempt to access, acquire or otherwise obtain data to which you are not legally entitled; (ix) impersonate any person or entity or misrepresent your affiliation with a person or entity; (x) use the Service in violation of applicable laws, rules, and regulations; (xi) use the Service to infringe the intellectual property rights, or otherwise violate the rights of others (xii) modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, republish, or copy any part of the Services (including data structures or similar materials produced by programs); or (xiii) access or use the Service to build or support, directly or indirectly, products or services competitive to Oracle.

You agree that you will not (and will not permit or encourage any third party to) directly or indirectly: (a) use the Service to harass any person; cause damage or injury to any person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; send unsolicited bulk e-mail, junk mail, spam or chain letters; infringe property rights; or otherwise violate applicable laws, ordinances or regulations; (b) perform or disclose any benchmarking, availability or performance testing of the Service; (c) perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking, remote access or penetration testing of the Services; or (d) use the Service to perform cyber currency or crypto currency mining (these restrictions are collectively referred to as the “**Acceptable Use Policy**”). In addition to other rights that we have in these Terms, we have the right to take remedial action if the Acceptable Use Policy is violated, and such remedial action may include removing or disabling access to material that violates the policy.

D. Your Content. Subject to the Terms, you may upload, transmit, post or create content, data, and information within the Service (collectively, “**Your Content**”). You understand that Your Content may be visible or otherwise accessible to your Users, the Participants (as defined below), and the public. You are solely responsible for ensuring that your Free Account has the appropriate settings for Your Content and we will not be responsible for any of Your Content being made visible to other users and organizations accessing or using Oracle Preconstruction (“**Participants**”) or any third party through the Oracle Preconstruction. You acknowledge and agree that once Your Content is shared with, or transmitted to, a General Contractor (as defined below) through the Services, it may become part of such General Contractor’s Your Content and any requests to delete, amend or withdraw such content or data would need to be made by you to the applicable General Contractor. We are not be liable to you for following the General Contractor’s instructions and the effect such instructions may have on you and Your Content or for deleting or retaining such content and data in accordance with the Hosting and Delivery Polices and the Oracle Global Business Unit Cloud Services Pillar Document available at <http://www.oracle.com/us/corporate/contracts/cloud-services/index.html> (together the “**H&D Policies**”) or otherwise. You are solely responsible for and will hold us harmless from any claims or damages arising in connection with Your Content, any bids, submissions or other interactions you may have with other Participants, including the General Contractors. You represent and warrant that you have all of the necessary rights, licenses, and consents to make Your Content available to us and the Participants in connection with the Service and Your Content will not infringe on the intellectual property rights, privacy rights, publicity rights, or other legal rights of any third party. You represent and warrant that Your Content will not contain any unlawful, defamatory, offensive, libelous, harassing, abusive, fraudulent, pornographic or obscene content or material. We do not actively monitor Your Content; however, we may refuse to accept or to transmit any of Your Content, or delete Your Content from the Service at any time, if we determine that Your Content is in violation of these Terms, or is otherwise inappropriate, in our sole discretion. You understand that upon any termination of your Free Account, that your access to Your Content will also be terminated. You agree to indemnify Oracle for any breach by you or your Users of the Terms.

E. Global Directory. The Global Directory (as defined below), including your and your Users’ personal information may be visible to all Participants, who may contact you and your Users through the Services or otherwise. “**Global Directory**” means the index of Participants and their personal information (including you and your Users) that may be accessible by you and other Participants through Oracle Preconstruction. Oracle will process the data or information you upload or include in the Global Directory in accordance with the Oracle Services Privacy Policy. You acknowledge and agree that all Participants listed in the Global Directory (whether General Contractors or Subcontractors) are joint controllers of any personal information contained therein for their respective use of the Global Directory to contact other Participants. You and all the Participants are responsible for compliance with all obligations applicable to controllers under applicable data protection law, in particular for any decisions and actions concerning the processing of such personal information and for complying with requests from individuals in accordance with applicable data protection laws with regard to your use of such personal information.

F. General Contractor. For the purposes of these Terms, a General Contractor is a Participant who executed an order with Oracle and who can communicate with other Participants and invite you and/or

other Participants to respond to bids, Bid Packages and requests through Oracle Preconstruction (“**General Contractor**”). Once Your Content is transmitted to a General Contractor it will become part of the Project Data (as defined below) and may not be withdrawn or deleted by you. Any request by you to withdraw or delete any Your Content within the Project Data will need to be made to the General Contractor. You further understand that the General Contractor may close or permanently delete any bid requests, files, invitations, RFIs, RFPs, bids, quotes, history and audit logs, communications and any other responses, data and any content received from, or sent to Participants through Oracle Preconstruction in relation to that Project or Bid Package, which may include Your Content (“**Project Data**”) and make such Project Data inaccessible by you. We may also permanently delete Project Data in accordance with the H&D Policies or otherwise. We shall have no liability for the information, content and data transmitted to you by the General Contractor(s), the Project Data, the General Contractor(s) and other Participants acts and omissions and for us following the General Contractor’s instructions in relation to the Project Data and deleting Project Data (including Your Content) in accordance with the H&D Policies or otherwise. You acknowledge that once a Project or Bid Package is closed on Oracle Preconstruction, Project Data may still be accessible by the applicable General Contractor, until the Project is deleted on Oracle Preconstruction. You understand that we may, but have no obligation to, notify you prior to or upon the closure of a Project or a Bid Package or the deletion of the Project Data.

G. “Program Documentation” shall be made available to you as part of the Service and can be accessed online at <http://oracle.com/contracts> or such other address specified by Oracle. Program Documentation are incorporated in these Terms and may include user manuals, help windows, readme files for the Service and any Software. You agree to abide by the obligations and instructions in the Program Documentation.

4. UPDATES

A. Service. We reserve the right, at our sole and absolute discretion, to: (i) make any unscheduled deployments of changes, modifications, updates or enhancements to the Service (or any part, feature or functionality thereof) at any time, with or without notice, (ii) modify, add, disable or remove features or functionality of the Service, (iii) modify, add, disable or remove any content, information or other material made available on or through the Service, (iv) modify, add, disable or remove any Third Party Services made available on, through or facilitated on or through the Services, and (v) modify, remove or substitute any promotions or special offers made available on or through our Service. If you do not agree or object to any change we make to the Service, then your sole and exclusive remedy shall be to terminate your Free Account (as provided in these Terms).

B. Terms. We may make changes to these Terms from time to time and you are responsible for periodically checking these Terms for any changes. By continuing to access or use the Services after those revisions become effective, you agree to be bound by the revised Terms. If you do not agree with the revised Terms, your sole and exclusive remedy shall be to terminate your Free Account (as provided in these Terms).

5. PROPRIETARY RIGHTS

A. Our Proprietary Rights. We and our licensors own all rights, title, and interest in and to the Site, Service, any and all components of the Service, all user interfaces and design on the Service, all content of any kind originating with us on the Service, all Proprietary Information, and all analytics, statistics and other information associated with use of the Service (collectively, “**Analytics**”), and all proprietary and intellectual property rights related to all of the above. In no event shall you contest our ownership rights with respect to any of the foregoing. Except for the express rights granted in Section 3.B, no other rights are granted by Oracle under these Terms, by implication, estoppel or otherwise, and all rights not expressly granted in these Terms are reserved by Oracle.

B. Your Proprietary Rights. Subject to our rights in this Section 5, you shall own all right, title and interest in and to Your Content.

C. Grant of Rights. You hereby grant Oracle and its subsidiaries, affiliates, contractors, vendors, and agents a non-exclusive, worldwide, perpetual, irrevocable, royalty-free right to use, display, copy, distribute, modify and make derivative works of Your Content in connection with the Service, including the operation, maintenance, and improvement of the Service, and the compilation of Analytics. To the extent you make Your Content available through the Service, you hereby grant to your Users, other Participants, and anyone else that may have access to Your Content through the Oracle Preconstruction, a non-exclusive right to access Your Content through the Service, and to use, reproduce, distribute, display and perform Your Content as permitted through the functionality of the Service. If you provide us with comments, suggestions, recommendations or other feedback with respect to the Service, including, without limitation, with respect to modifications, enhancements, improvements and other changes to the Service (collectively, “**Feedback**”), you hereby grant to us a worldwide, perpetual, irrevocable, royalty-free right to use, reproduce, modify, distribute, and/or exploit, for commercial purposes or otherwise, the Feedback in connection with the Service or any of our other products and services now existing or later developed, without any obligation to you.

D. Proprietary Information. All technical and non-technical information concerning or relating to the Site and Service and Oracle Preconstruction in general, including any source code, documentation, product roadmaps, business and marketing plans, and any information related to the foregoing constitutes our confidential and proprietary information (“**Proprietary Information**”). You agree to: (i) use the Proprietary Information only in connection with fulfilling your rights and obligations under these Terms; (ii) hold the Proprietary Information in strict confidence and exercise due care with respect to its handling and protection, consistent with your protection of your own Proprietary Information but not less than reasonable care; and (iii) not publish or disclose the Proprietary Information except for disclosures to employees who have entered into written confidentiality obligations no less stringent than those contained in these Terms, and then only on a “need-to-know” basis. You agree that any unauthorized disclosure of the Proprietary Information would cause us irreparable harm, and that in the event of any breach or threatened breach of the above confidentiality obligations, we shall be entitled to seek equitable relief in addition to any other remedy we may have at law or in equity.

6. Indemnification

A. If a third party makes a claim against either you or Oracle (“**Recipient**” which may refer to you or us depending upon which party received the Material), that any information, design, specification, instruction, software, service, data, hardware, or material (collectively, “**Material**”) furnished by either you or us (“**Provider**” which may refer to you or us 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.

B. 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. If such return materially affects our ability to meet obligations under these Terms, then we may, upon 30 days prior written notice, terminate the Service. If such Material is third party technology and the terms of the third party license do not allow us to terminate the license, then we may, upon 30 days prior written notice, end the Service associated with such Material.

C. The Provider will not indemnify the Recipient if the Recipient (a) alters the Material or uses it outside the scope of use identified in the Provider’s user or program documentation, or (b) uses a version of the Material which has been superseded, if the infringement claim could have been avoided by using an

unaltered current version of the Material which was made available to the Recipient. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any Material not furnished by the Provider. We will not indemnify you to the extent that an infringement claim is based on Third Party Content or any Material from a third party portal or other external source that is accessible or made available to you within or by the Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, marketing data from third party data providers, etc.).

D. This Section 6 provides the parties' exclusive remedy for any infringement claims or damages.

7. PRIVACY

Any information that you provide to us in connection with the Service is subject to the Oracle Services Privacy Policy, the current version of which is incorporated into these Terms by this reference and located at <https://www.oracle.com/us/legal/privacy/overview/index.html> (the "**Services Privacy Policy**"). You may only exercise your rights under the Services Privacy Policy for the Project Data through the applicable General Contractor. In relation to Project Data, you acknowledge and agree that you do not obtain any additional rights or claims separate and distinct from the applicable General Contractor's rights under the General Contractor's applicable data processing agreement and privacy policies. Any audit request under the Services Privacy Policy must be coordinated between you and the applicable General Contractor and must not exceed in total 1 audit per year by the parties.

8. THIRD PARTY SERVICES AND CONTENT

A. Third Party Services. We may make available to you certain third party products or services for use in connection with the Service ("**Third Party Services**"). When you engage a third party's website or service, which is linked to, facilitated through or provided via our Service, you are interacting with the third party and not with us. These Third Party Services are not under our control and we are not responsible for the contents, functionality or performance of any Third Party Services, or any changes or updates to such Third Party Services maintained by the applicable third parties. You understand and agree that your use of those Third Party Services may be subject to additional terms and conditions and policies that are specific to such Third Party Services, and that you shall be bound by such terms and conditions and policies if you elect to use such Third Party Services. We make no representations or warranties with respect to any Third Party Services, be it express or implied. We are not responsible for the privacy practices of such Third Party Services nor any data or information you may share with or via such Third Party Services. You are solely responsible for determining the suitability of any Third Party Services that you elect to use in connection with the Service. Any and all use of such Third Party Services shall be at your sole risk.

B. Third Party Content. Any opinions, advice, statements, services, offers, or other information that constitutes part of the content expressed, authored, or made available by other users or other third parties on or through the Service (collectively, "**Third Party Content**") are those of their respective authors or producers and not ours. It is your responsibility to evaluate the information, opinion, advice, or other content available on and through the Site and Service. We do not control Third Party Content and do not guarantee the accuracy, integrity or quality of such Third Party Content. We are not responsible for the performance of, nor do we endorse, any Third Party Content or any information or materials advertised in or through either of the foregoing. We will not be responsible or liable, directly or indirectly, for any damage or loss caused to you by your use of or reliance on any goods, services, or information available on or through any Third Party Content.

9. DISCLAIMER

TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE SITE, SOFTWARE, AND SERVICE ARE PROVIDED "AS-IS," AND "AS AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND. WE DO NOT WARRANT THE COMPREHENSIVENESS, CORRECTNESS,

LEGALITY, OR ACCURACY OF THE SERVICE, THAT THE SERVICE OR ANY THIRD PARTY SERVICE WILL ALWAYS BE AVAILABLE, UNINTERRUPTED OR ERROR FREE, OR THAT THE SERVICE, ANY THIRD PARTY SERVICES, AND ANY CONTENT WILL BE SECURE OR NOT OTHERWISE LOST, CORRUPTED OR DAMAGED. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH OR FROM OUR SERVICE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS. YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SITE, SERVICE, AND/OR SOFTWARE SHALL BE AT YOUR SOLE RISK.

10. CLAIMS

You will indemnify, defend, and hold Oracle, its affiliates, and their respective officers, directors, employees, agents, contractors, licensors, partners and suppliers (each a “**Covered Party**” and collectively, the “**Covered Parties**”) harmless from and against any and all claims, liabilities, damages, losses, costs, expenses, and attorneys’ fees (“**Claim(s)**”) arising out of or related to: (i) your use of and access to the Service; (ii) any of Your Content, data or Your Applications; (iii) any and all Taxes; and (iv) your violation of these Terms.

11. LIABILITY

A. TO THE MAXIMUM EXTENT NOT PROHIBITED UNDER APPLICABLE LAW, WE SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY CLAIMING THROUGH YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR EXEMPLARY DAMAGES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING, BUT NOT BE LIMITED TO CONTRACT, TORT, COMMON LAW, OR STATUTE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, STATEMENTS OR CONDUCT OF ANY THIRD PARTY REGARDING THE SITE OR SERVICE, OR USE OF THE SITE OR SERVICE, INCLUDING WITHOUT LIMITATION ANY LOSS OF DATA USE, DATA, CONTENT, PROFITS, SALES, GOODWILL, OR REPUTATION, WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR MAXIMUM AGGREGATE LIABILITY WITH RESPECT TO ANY CLAIM ARISING UNDER THESE TERMS SHALL NOT EXCEED THE AMOUNT OF ONE THOUSAND USD (\$1,000.00).

B. THE PARTIES AGREE THAT THE PROVISIONS IN THIS SECTION 11 REPRESENT A FAIR ALLOCATION OF THE RISKS AND ARE ESSENTIAL ELEMENTS OF THE BASIS OF THE BARGAIN, WITHOUT WHICH THE PARTIES WOULD NOT HAVE ENTERED INTO THESE TERMS.

12. TERM, TERMINATION, SUSPENSION OF SERVICE, AND DATA RETENTION OR DELETION

A. Term. These Terms are effective upon the date you first accept them, and shall continue until the termination of your Free Account.

B. Termination

(i) Termination by You. You may terminate your Free Account and these Terms at any time by sending a written notice to Oracle pursuant to Section 13.I. Such termination shall be effective upon Oracle receipt of such notice.

(ii) Termination by Us. We may terminate your Free Account and these Terms at any time upon written notice to you, and such termination shall be effective on the date of such notice. Additionally, we may terminate your Free Account, these Terms and your rights to access and use the Service (or any part thereof) for cause, immediately, without prior notice or liability to you, if in our sole determination: (a) you or your Users fail to comply with the Acceptable Use Policy, (b) you or your Users misuse the Service or violate or fail to comply with any provision of the Terms, (c) Your Content is infringing or violates the rights of any third party, (d) you failed to provide true or accurate information in connection with your Free Account registration, or (e) as required by applicable law. We may also terminate your Free Account and

these Terms, without prior notice or liability to you, if you have been inactive on the Free Account for 12 months.

(iii) Effect of Termination. Upon the expiration or termination of these Terms for any reason, all rights granted to you under these Terms, and all access to the Service, your Free Account, and Your Content, will immediately terminate. You acknowledge and agree that we will retain and delete Your Content in accordance with the H&D Policies and subject to Section 3 of these Terms. Regardless of the above, we shall be entitled to keep copies of any and all of Your Content necessary in order for us to comply with applicable laws and obligations to other Participants. Provisions that survive termination or expiration of these Terms are those relating to limitation of liability, indemnification and others, which by their nature are intended to survive.

C. Suspension of Service. Without limiting the above termination rights, we reserve the right, at any time and in our sole discretion, to temporarily suspend access to the Service (or any part thereof) for: (a) scheduled or unscheduled maintenance; (b) purposes of maintaining the security and/or integrity of Oracle's network, hardware, or associated systems or those of its third party providers; (c) unplanned technical problems or outages; (d) failure to comply with the Acceptable Use Policy; or (e) the actual or suspected violation of these Terms by you or any of your Users.

13. GENERAL

A. Relationship of Parties. You and Oracle are independent contractors under these Terms and not partners, agents or joint venturers. Neither party will make any commitment, by contract or otherwise, binding upon the other or represent that it has any authority to do so. You understand that we reserve the right to offer and to provide the Service to third parties in our sole discretion. We may use your name, logo, trademarks and/or trade names to identify you as a customer of Oracle or in connection with our publicity releases, promotional material, customer lists, and/or advertising, marketing or business-generating efforts with your consent, not to be unreasonably withheld or delayed.

B. Force Majeure. Neither you nor we 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 cancelation of any export, import or other license); or other event outside the reasonable control of the obligated party. Both you and we will use reasonable efforts to mitigate the effect of a force majeure event.

C. Governing Law and Jurisdiction. These Terms are governed by the substantive and procedural laws of the State of California and each party agrees to submit to the exclusive jurisdiction of, and venue in, the courts in San Francisco or Santa Clara counties in California in any dispute arising out of or relating to these Terms. The Uniform Computer Information Transactions Act does not apply to these Terms.

D. Compliance. You will comply (and will ensure that all your Users comply) with all applicable laws in your use of the Service. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Service. Such export laws govern use of the Service (including technical data) and any Service deliverables provided under these Terms, and you and we each agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). You agree that no data, information, software programs and/or materials resulting from the Service (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. You acknowledge that the Service is designed with capabilities for you and your Users to access the Service without regard to geographic location and to transfer or otherwise move Your Content between the Service and other locations such as user workstations. You are solely responsible for the authorization and management of user accounts across geographic locations, as well as export control and geographic transfer of Your Content.

E. Assignment. You may not assign these Terms, including any rights or obligations under these Terms, or give or transfer the Service, or any interest in the Service, without our prior written consent, and any attempt to do so will be null and void. We may assign these Terms at any time in our sole discretion.

F. Audit. Upon forty-five (45) days written notice and no more than once every twelve (12) months, Oracle may audit your compliance with these Terms. You agree to cooperate with Oracle's audit and to provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with your normal business operations.

G. Severability. In the event that a court of competent jurisdiction finds any provision of these Terms to be illegal, invalid, or unenforceable, such provision shall be struck from these Terms, with the remaining provisions unaffected and in full force and effect.

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

I. Notices; Electronic Communications. By accepting these Terms and registering for the Service, you consent to receiving and we reserve the right to send you electronic communications or information regarding the Service, including sending emails to your email address provided during registration (or as updated by you), or posting communications on the Service, which may include notices about your Free Account. You agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. You also consent to receiving certain other marketing communications from us, such as promotional information and materials regarding our products and services. You will have the opportunity to opt-out of receiving such marketing communications should we send you such communications.

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

J. Business Partners. Our business partners and other third parties, including any third parties with which the Service has integrations or that are retained by you to provide consulting services, implementation services or applications that interact with the Service, are independent of Oracle and are not Oracle's agents. We are not liable for, bound by, or responsible for any problems with the Service or Your Content arising due to any acts of any such business partner or third party, unless the business partner or third party is providing services as our subcontractor on an engagement ordered under these Terms and, if so, then only to the same extent as we would be responsible for our resources under these Terms.

K. Entire Agreement. You agree that these Terms and the information which is incorporated into these Terms by written reference (including reference to information contained in a URL or referenced policy) is the complete agreement for the Service ordered by you and supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such Service. It is expressly agreed that these Terms shall supersede the terms in any purchase order, procurement internet portal, or other similar non-Oracle document and no terms included in any such purchase order, portal, or other non-Oracle document shall apply to the Service ordered. Except as provided in Section 4, these Terms may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online by authorized representatives of you and of Oracle. No third party beneficiary relationships are created by these Terms.