

SERIAL 03100 IGA ORACLE SOFTWARE LICENSE AND SUPPORT

DATE OF LAST REVISION: September 25, 2007 CONTRACT END DATE: October 31, 2008

**CONTRACT PERIOD BEGINNING MARCH 25, 2004
ENDING OCTOBER 31, 2008**

TO: All Departments

FROM: Department of Materials Management

**SUBJECT: Contract for ORACLE SOFTWARE LICENSE AND
SUPPORT**

Attached to this letter is a listing of vendors available to Maricopa County Agencies utilizing the Arizona State Procurement Office Contract AD040034-001. The using agency and other interested parties may access and electronic version of this contract from the Materials Management Web site at:

http://www.maricopa.gov/materials/Awarded_Contracts/search.asp.

Please note: Price Agreement Purchase Orders (PG documents) may be generated using the information from this list. Use NIGP CODE: 2089002.

All purchases of product(s) listed on the attached pages of this letter are to be obtained from the listed contractor(s).



Letter of Award

State Procurement Office

100 N. 15th Ave

Suite 104

Phoenix, AZ 85007-3223

Contract No.: AD040034-001

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Vendor: Oracle Corporation - AZ

OF
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October 31, 2003

Oracle Corporation - AZ
3200 E Camelback Rd
Suite 255
Phoenix, AZ 85018-

Dear Mary Perry:

Attached please find a contract with the Offer and Acceptance documents and amendment.

Please print two (2) copies, sign both and return them to my attention for full execution.

You are cautioned not to commence any billable work or to provide any material or service under this activity until you receive a full executed copy of the agreement. If you have any questions please contact Connie Gerdes at (602) 542-9138.

We look forward to a mutually beneficial contract.

Sincerely

Connie Gerdes
Procurement Specialist



Contract Summary

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CONTRACT TITLE: Oracle Software License and Support

CONTRACT TYPE: Statewide Contract

CONTRACT PERIOD: November 01, 2003

THRU: October 31, 2008

CONTRACTOR NUMBER: 942422637 - 900

CONTRACTOR NAME: Oracle Corporation - AZ

CONTACT NAME : Mary Perry

ADDRESS: 3200 E Camelback Rd

Suite 255

Phoenix, AZ 85018

TELEPHONE: (602) 224-6215

FAX NUMBER: (602) 224-6250

CONTRACTING AGENCY: State Procurement Office

CONTACT NAME: Connie Gerdes

TELEPHONE: (602) 542-9138

F.O.B. TERMS: FOB Delivered

DELIVERY: net 30 days ARO

PAYMENT TERMS:

	Offer and Acceptance		State Procurement Office
	Contract No.: AD040034 - 001	PAGE 3	100 N. 15th Ave
	Vendor: Oracle Corporation - AZ	OF 25	Suite 104 Phoenix, AZ 85007 - 3223

OFFER

TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Arizona Transaction (Sales) Privilege Tax License No.:

For clarification of this offer, contact:

Federal Employer Identification No.:

Name:

98 287 1159

Phone:

ORACLE CORPORATION

Fax:

Company Name

602 224 6215
602 224 6250

500 ORACLE PARKWAY

Signature of Person Authorized to Sign Offer

Address

DOUGLAS W. DORAN

REDWOOD SHORES CA 94065

Printed Name

City State Zip

MANAGER, OGBH CONTRACTS

Title

CERTIFICATION

By signature in the Offer section above, the bidder certifies:

- The submission of the offer did not involve collusion or other anti-competitive practices.
- The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 99.4 or A.R.S. §§ 41-1461 through 1465.
- The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
- The bidder certifies that the above referenced organization is/ is not a small business with less than 100 employees or has gross revenues of \$4 million or less.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

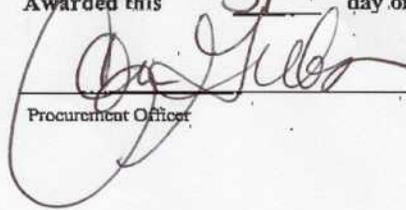
The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This contract shall henceforth be referred to as Contract No. AD040034-001. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contract release document or written notice to proceed.

State of Arizona
Awarded this

31 day of October 2003

Procurement Officer





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ORACLE LICENSE AND SERVICES AGREEMENT

This license and services agreement (“agreement”) includes the terms set out below and the order you previously completed. Your order is not effective until accepted by Oracle. If accepted, Oracle will notify you and this notice will include a copy of your agreement.

Definitions

“You” and “your” refers to the individual or entity that has ordered Oracle programs and/or services from Oracle or an authorized distributor. The term “programs” refers to the Oracle software products which you have ordered, program documentation, and any program updates acquired through technical support. The term “services” refers to technical support (excluding any program updates acquired through technical support), education, online, consulting or other services which you have ordered.

Rights Granted

Upon Oracle’s acceptance of your order, you have the limited right to use the programs and receive any services you ordered solely for your business operations and subject to the terms of this agreement, including the definitions and rules set forth in the order and the program documentation. You may allow your agents and contractors to use the programs for this purpose, subject to the terms of this agreement. Program documentation is either shipped with the programs, or you may access the documentation online at <http://docs.oracle.com>. If ordered, annual technical support is provided under Oracle’s technical support policies, which are subject to change and may contain additional terms. You may access the current version of the technical support policies at <http://oracle.com/support/index.html?policies.html>. Services are provided based on Oracle’s policies for the applicable services ordered and those policies are subject to change and may contain additional terms. Upon Oracle’s acceptance, you have the limited right to use the materials resulting from the consulting services you ordered solely for your business operations and subject to the terms of this agreement. You may access the current version of the consulting services policies at <http://oracle.com/consulting/policies/index.html?content.html>. The services provided under this agreement may be related to your license to use programs owned or distributed by Oracle which are acquired by you under a separate order. The agreement referenced in the applicable order shall govern your use of such programs. Any services acquired from Oracle are bid separately from such program licenses, and you may acquire either services or such program licenses without acquiring the other.

Ownership and Restrictions

Oracle retains all ownership and intellectual property rights to the programs and materials resulting from the services. You may make a sufficient number of copies of each program for your licensed use and one copy of each program media; you must obtain Oracle’s prior written approval to make additional copies.

You may not:

- remove or modify any program markings or any notice of Oracle’s proprietary rights;
- make the programs or materials resulting from the services 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 you have acquired);
- use the programs to provide third party training on the content and/or functionality of the programs, except for training your licensed users;
- cause or permit reverse engineering (unless required by law for interoperability), disassembly or decompilation of the programs; or
- disclose results of any program benchmark tests without Oracle’s prior written consent.

Warranties, Disclaimers and Exclusive Remedies

Oracle warrants that programs will substantially operate as described in the applicable program documentation for one year after Oracle delivers them to you. Oracle also warrants that services ordered will be provided in a manner consistent with industry standards, and this warranty is valid for a period of 90 days from performance of the service.

ORACLE DOES NOT GUARANTEE THAT THE PROGRAMS WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT ORACLE WILL CORRECT ALL PROGRAM ERRORS. TO THE EXTENT PERMITTED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS



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OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FOR ANY BREACH OF THE 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 A BREACH IN A COMMERCIALY REASONABLE MANNER, YOU MAY END YOUR PROGRAM LICENSE AND RECOVER THE FEES 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 SERVICES, OR IF ORACLE CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE RELEVANT SERVICES AND RECOVER THE FEES PAID TO ORACLE FOR THE RELEVANT SERVICES.

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 have 30 days from the delivery date to evaluate these programs. If you decide to use any of these programs after the 30 day trial period, you must obtain a license for each program from Oracle. If you decide not to obtain a license for any program after the 30 day trial period, you will cease using and will delete the applicable 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.

Indemnification

If someone makes a claim against you or Oracle ("Recipient") that any information, design, specification, instruction, software, data, or material ("Material") furnished by the providing party ("Provider") and used by the Recipient infringes their intellectual property rights, the Provider will indemnify the Recipient if the Recipient does the following:

- 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;
- gives the Provider sole control of the defense and any settlement negotiations; and
- gives the Provider the information, authority, and assistance the Provider needs to defend against or settle the claim.

If the Provider believes that any of the Material may have violated someone else's intellectual property rights, the Provider may choose to either modify the Material to be non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for the applicable Material and refund any fees the Recipient may have paid for it. If you are the Provider and 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 and you will pay Oracle for the services and related expenses rendered through the date of termination on a time and materials or percent of completion basis as applicable. The Provider will not indemnify the Recipient if the Recipient alters the Material outside the scope of use identified in the Provider's user documentation or if the Recipient uses a version of the Materials which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the 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. You will indemnify Oracle to the extent that an infringement claim is based upon the combination of programs with any products or services not provided by Oracle. This section provides the parties' exclusive remedy for any infringement claims or damages.

Technical Support

For purposes of the ordering document, technical support consists of Software Updates, Product Support and/or other annual technical support services you may have ordered. If ordered, annual technical support is provided under Oracle's technical support policies in effect at the time the services are provided. The technical support policies, incorporated in this agreement, are subject to change and may contain additional terms, and you should review the policies prior to entering into the ordering document for the applicable services. You may access the current version of the technical support policies at <http://oracle.com/support/index.html?policies.html>. Technical support acquired with your order may be renewed annually and for the initial two renewal years the technical support fee will not increase by more than 4% over the prior OLSA_V020703_US Page 3 of 9

year's fees. If your order is fulfilled by a member of Oracle's partner program, the technical support fee for the first renewal year will be the price quoted to you by your partner; the technical support fee for the second renewal year will not increase by more than 4% over the prior year's fees. If you desupport a subset of licenses in a license set, you may be required to terminate those licenses. Any cancellation of support may result in the re-pricing of support for your remaining



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licenses.

Oracle reserves the right to desupport its programs. You will be notified in advance when a program is being desupported. Such desupport notices, which are posted at Oracle's customer support web site, MetaLink (or Oracle's then current customer support web site), contain desupport dates, information about availability of Extended Assistance Support and Extended Maintenance Support and information about migration paths for certain features. The desupport notices are subject to change; Oracle will provide updated desupport notices on MetaLink (or Oracle's then current customer support web site) as necessary.

GENERAL

End of Agreement

If you breach the terms of this agreement and fail to correct the breach within 30 days after Oracle notifies you in writing, Oracle may end this agreement and your use of programs and/or services ordered. If Oracle ends this agreement as specified in the preceding sentence, you must pay within 30 days all amounts which have accrued prior to the end of this agreement, as well as all sums remaining unpaid for programs ordered and/or services received under this agreement. You agree that if you are in default under this agreement, you may not use those programs and/or services ordered. You further agree that if you have used an OFD agreement to pay for the fees due under an order and you are in default under the OFD agreement related to that order, you may not use the programs and/or services ordered.

Fees and Taxes

All fees payable to Oracle are due within 30 days from the invoice date, and you also agree to pay any sales, value-added or other similar taxes imposed by applicable law which Oracle must pay based on the programs or services you ordered. Fees listed in this agreement are exclusive of value added tax and/or similar sales taxes. Such taxes shall be charged at the appropriate rate by Oracle in addition to its stated fees and shall be shown separately on the relevant invoice.

Nondisclosure

By virtue of this agreement, the parties may have access to information that is confidential to one another ("confidential information"). Confidential information shall be limited to the terms and pricing under this agreement, and all information clearly identified as confidential.

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.

The parties agree to hold each other's confidential information in confidence for a period of three years from the date of disclosure. The parties agree, unless required by law, not to make each other's confidential information available in any form to any third party for any purpose other than the implementation of this agreement. Each party agrees to take all reasonable steps to ensure that confidential information is not disclosed or distributed by its employees or agents in violation of the terms of 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.

Entire Agreement

You agree that this agreement and the information which is expressly incorporated into this agreement (including reference to information contained in a URL), together with the applicable order, are the complete agreement for the programs and services ordered by you, and this agreement supersedes all prior or contemporaneous agreements or representations regarding such programs and/or services. If any term of this agreement is found to be invalid or unenforceable, the remaining provisions will remain effective. It is expressly agreed that the terms of this agreement and any Oracle ordering document shall supersede the terms in any purchase order or other non-Oracle ordering document and no terms included in any such purchase order or other non-Oracle ordering document shall apply to the programs and/or services ordered. This agreement 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 and any notice required under this agreement shall be provided to the other party in writing.

Limitation of Liability

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR



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CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE. ORACLE'S MAXIMUM LIABILITY FOR ANY DAMAGES UNDER THIS AGREEMENT AND YOUR ORDER, WHETHER IN CONTRACT OR TORT, SHALL BE LIMITED TO THE FEES YOU PAID ORACLE FOR THE DEFICIENT PROGRAM OR SERVICE UNDER THIS AGREEMENT AS SPECIFIED IN YOUR ORDER. IN NO EVENT SHALL ORACLE'S LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL VALUE OF YOUR ORDER.

Export

You agree that U.S. export control laws and other applicable export and import laws govern your use of the programs, including technical data; additional information can be found on Oracle's Global Trade Compliance web site located at <http://www.oracle.com/products/export/index.html?content.html>. You agree that neither the programs nor any 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.

Other

This agreement is governed by the substantive and procedural laws of California and you and Oracle agree to submit to the exclusive jurisdiction of, and venue in, the courts in San Francisco, San Mateo, or Santa Clara counties in California in any dispute arising out of or relating to this agreement.

If you have a dispute with Oracle or if you wish to provide a notice under the Indemnification section of this agreement, or if you become subject to insolvency proceedings, you will promptly send written notice to: Oracle Corporation, 500 Oracle Parkway, Redwood City, California, United States, 94065, Attention: General Counsel, Legal Department.

You may not assign this agreement or give or transfer the programs and/or any services ordered or an interest in them to another individual or entity. If you grant a security interest in the programs and/or any services, the secured party has no right to use or transfer the programs and/or any services, and if you decide to lease or finance your acquisition of the programs and/or any services, you will follow Oracle's policies regarding financing and leasing which are at <http://www.oracle.com/services/financing/index.html?Financing.html>

Except for actions for nonpayment or breach of Oracle's proprietary rights in the programs, 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.

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. You agree to pay within 30 days of written notification any underpaid fees. If you do not pay, Oracle can end your technical support, licenses and this agreement.

The Uniform Computer Information Transactions Act does not apply.

License Definitions and Rules

To fully understand your license grant, you need to review the definition for the licensing metric and term designation as well as the licensing rules which are listed below.

Adapter: is defined as each software code interface, installed on each Application Interconnect hub, which facilitates communication of information between third party software applications and Oracle programs.

\$M Annual Transaction Volume: is defined as one million U.S. dollars in all purchase orders transacted and all auctions conducted through the Oracle Exchange Marketplace by you and others during the applicable year of the Oracle Exchange Marketplace license, regardless of whether any such auction results in a purchase order, provided that an auction resulting in a purchase order shall only be counted against the Annual Transaction Volume once.

\$M Annual Transportation Spend: is defined as one million U.S. dollars in all transportation and logistics service purchase orders, auctions and Request for Quotes (RFQs) conducted through the Oracle Transportation by you and others during the applicable year. Auctions and RFQs must be counted regardless of whether the auction or RFQ results in a purchase order; if an auction or RFQ results in a purchase order it shall only be counted toward the Annual Transportation Spend once. If the Annual Transportation Spend is unknown to you, then the Annual Transportation Spend shall be equal to 15% of total company revenue.

Applications National Language Support (NLS) Supplement CD Packs: Please be advised that only a subset of the



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products included on an Applications NLS Supplement CD Pack have been translated. For existing supported customers, MetaLink has information on which products have been translated for the supported languages (<http://metalink.oracle.com>). For new or unsupported customers, please contact your Oracle Account Manager for this information.

Application User: is defined as an individual authorized by you to use the application programs which are installed on a single server or on multiple servers regardless of whether the individual is actively using the programs at any given time.

Application Read-Only User: is defined as an individual authorized by you to run only queries or reports against application programs for which you have acquired Application User licenses.

Case Report Form (CRF) Page: is defined as the "electronic equivalent" of what would be the total number of physical paper pages initiated remotely by the program (measured explicitly in the program as Received Data Collection Instruments) during a 12 month period. You may not exceed the licensed number of CRF Pages during any 12 month period unless you acquire additional CRF Page licenses from Oracle.

Compensated Individual: is defined as an individual whose compensation or compensation calculations are generated by the programs. The term Compensated Individual includes, but is not limited to, your employees, contractors, retirees, and any other Person.

Computer: is defined as the computer on which the programs are installed. A Computer license allows you to use the licensed program on a single specified computer.

\$M Cost of Goods Sold: is defined as one million U.S. dollars in the total cost of inventory that a company has sold during their fiscal year. If Cost of Goods Sold is unknown to you then Cost of Goods Sold shall be equal to 75% of total company revenue.

Employee: is defined as an active employee of yours. (*note: The value of these applications is determined by the size of the active employee population and not the number of actual users. Therefore, all of your active employees must be included in your order when licensing these applications.*)

Employee User: is defined as an individual authorized by you to use the application programs which are installed on a single server or multiple servers, regardless of whether or not the individual is actively using the programs at any given time. Your human resource personnel that require access to the Oracle Self Service Human Resources program may not be licensed as Employee Users, but must be licensed as Professional Users. Additionally, your technical support personnel that require access to the Oracle iSupport program may not be licensed as Employee Users, but must be licensed as Professional Users.

Entry: is defined as a unique item (e.g., object, person, entity or item of information) stored within the programs. Replicated entries stored within the program on multiple servers are counted as a single entry.

Expense Report: is defined as the total number of expense reports processed by Internet Expenses during a 12 month period. You may not exceed the licensed number of expense reports during any 12 month period.

Field Technician: is defined as an engineer, technician, representative, or other person who is dispatched by you to the field using the programs.

Full Time Equivalent (FTE) Student: is defined as any full-time student enrolled in your institution and any part-time student enrolled in your institution counts as 25% of an FTE Student. The definition of "full-time" and "part-time" is based on your policies for student classification. If the number of FTE Students is a fraction, that number will be rounded to the nearest whole number for purposes of license quantity requirements.

Hosted Named User: is defined as an individual authorized by you to access the hosted service, regardless of whether the individual is actively accessing the hosted service at any given time.



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iLearning Subscription: is defined as a web based learning environment that is made available to you subject to the terms of this agreement and Oracle's iLearning Subscription Policies. Oracle's iLearning Subscription Policies are located at <http://oracle.com/policies/ilearningpolicy.html>, and may be updated by Oracle from time to time without notice to you.

Implementation Services, Packaged Methods, Architecture Services, Accelerator Services, Assessment Services and Workshops

Each Implementation Service, Packaged Method, Architecture Service, Accelerator Service, Assessment Service and Workshop is provided subject to the statement of obligation for that particular offering and Oracle's consulting services policies. Oracle's consulting services policies are located at www.oracle.com/consulting/policies/index.html?content.html, and are subject to change.

Invoice Line: is defined as the total number of invoice line items processed by the program during a 12 month period. You may not exceed the licensed number of Invoice Lines during any 12 month period unless you acquire additional Invoice Line licenses from Oracle.

Learning Credits: may be used to acquire education products (excluding Oracle Tutor, Oracle iLearning and Oracle iLearning Subscription) and services, at the list price and under the terms specified in the Oracle University online catalogue, posted at www.oracle.com/education, at the time such products or services are ordered. A Learning Credit is valid for 12 months from the date the Learning Credit is ordered, and may only be used in the country where it was acquired. Any unused Learning Credit will expire at the end of the term. You may be required to execute standard Oracle ordering materials when using a Learning Credit to order education products or services.

\$M in Managed Assets: is defined as one million U.S. dollars of the following total: (1) Book value of investment in capital leases, direct financing leases and other finance leases, including residuals, whether owned or managed for others, active on the program, plus (2) Book value of assets on operating leases, whether owned or managed for others, active on the program, plus (3) Book value of loans, notes, conditional sales contracts and other receivables, owned or managed for others, active on the program, plus (4) Book value of non earning assets, owned or managed for others, which were previously leased and active on the program, including assets from term terminated leases and repossessed assets, plus (5) Original cost of assets underlying leases and loans, originated and active on the program, then sold within the previous 12 months.

Module: is defined as each production database running the programs.

Named User Plus: is defined as an individual authorized by you to use the programs which are installed on a single server or multiple servers, regardless of whether the individual is actively using the programs at any given time. A non human operated device will be counted as a named user plus in addition to all individuals authorized to use the programs, if such devices can access the programs. If multiplexing hardware or software (e.g., a TP monitor or a web server product) is used, this number must be measured at the multiplexing front end. Automated batching of data from computer to computer is permitted. You are responsible for ensuring that the named user plus per processor minimums are maintained for the programs contained in the user minimum table in the licensing rules section; the minimums table provides for the minimum number of named users plus required and all actual users must be licensed.

Non Employee User - External: is defined as an individual, who is not your employee, contractor or outsourcer, authorized by you to use the application programs which are installed on a single server or multiple servers, regardless of whether or not the individual is actively using the programs at any given time.

OFD Agreement: is an agreement between you and Oracle (or one of Oracle's affiliates) that provides for payments over time of some or all of the sums due under your order.

Oracle Learning Network (OLN): OLN is a web based learning environment that is made available to you subject to the terms of this agreement and Oracle's OLN Hosting Access Policies. Oracle's OLN Hosting Access Policies are located at www.oracle.com/education/oln/index.html?oln_policies.html, and may be updated by Oracle from time to time without notice to you.

Order Line: is defined as the total number of order entry line items processed by the program during a 12 month period.



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Multiple order entry line items may be entered as part of an individual customer order or quote and may also be automatically generated by the Oracle Configurator. You may not exceed the licensed number of Order Lines during any 12 month period unless you acquire additional Order Line licenses from Oracle.

Orders: is defined as the total number of distinct orders for all programs that are a part of Electronic Orders, entered electronically (not manually entered by licensed professional users) through EDI, XML or other electronic means including purchase orders transmitted from Oracle Purchasing, during a 12 month period. You may not exceed the licensed number of orders during any 12 month period.

Partner User: is defined as an individual authorized by you to use the Oracle Partners Online program which is installed on a single server or on multiple servers regardless of whether the individual is actively using the Oracle Partners Online program at any given time.

Person: is defined as your employee or contractor who is actively working on behalf of your organization or a former employee who has one or more benefit plans managed by the system or continues to be paid through the system. For Time and Labor, a person is defined as an employee or contractor whose time or labor (piece work) or absences are managed by the system. For Project Resource Management, a person is defined as an individual who is scheduled on a project. The total number of licenses needed is to be based on the peak number of part-time and full-time people whose records are recorded in the system.

Ported Number: is defined as the telephone number that end users retain as they change from one service provider to another. This telephone number originally resides on a telephone switch and is moved into the responsibility of another telephone switch.

Primary Usage: is defined as each Application User of the following applications: Financials, Discrete Manufacturing, Process Manufacturing, Project Costing and Purchasing. Each such Application User is counted only once based on primary usage. You must specify how many Application Users you are licensing for each application. Primary Usage of one of the applications listed above provides the Application User with the right to use any or all of the other application programs listed above for which you are licensed. Primary Usage does not provide you with the right to use other application programs including the extensions or options to the application programs listed above.

Processor: shall be defined as all processors where the Oracle programs are installed and/or running. Programs licensed on a Processor basis may be accessed by your internal users (including agents and contractors) and by third party users. For the Healthcare Transaction Base program, only the processors on which Internet Application Server (Standard Edition and/or Enterprise Edition) and this program are installed and/or running are counted for the purpose of determining the number of licenses required. For the iSupport, iStore and Configurator programs, only the processors on which Internet Application Server (Standard Edition and/or Enterprise Edition) and the licensed program are running are counted for the purpose of determining the number of licenses required for the licensed program; under these licenses you may also install and/or run the licensed program on the processors where a licensed Oracle Database (Standard Edition and/or Enterprise Edition) is installed and/or running.

Professional User: is defined as an individual authorized by you to use the application programs which are installed on a single server or multiple servers, regardless of whether or not the individual is actively using the programs at any given time. For the purposes of Order Management, Advanced Pricing and Purchasing, Professional Users are allowed to manually enter orders directly into these programs but any orders transmitted or executed electronically (via EDI, XML or other electronic means including purchase orders transmitted from Oracle Purchasing) must be licensed separately using the Order metric.

Professional User – External : is defined as an individual, who is not your employee, contractor or outsourcer, authorized by you to use the application programs which are installed on a single server or multiple servers, regardless of whether or not the individual is actively using the programs at any given time. For the purposes of Order Management, Advanced Pricing and Purchasing, Professional Users – External are allowed to manually enter orders directly into these programs but any orders transmitted or executed electronically (via EDI, XML or other electronic means including purchase orders transmitted from Oracle Purchasing) must be licensed separately using the Order metric.



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Program Documentation: is defined as the program user manual and program installation manuals.

Purchase Line: is defined as the total number of purchase line items processed by the application during a 12 month period. Multiple purchase lines may be created on either a requisition or purchase order or may be automatically generated by other Oracle Application programs. For iProcurement, Purchase Lines are counted as all line items on an approved requisition created in iProcurement. For Purchasing Intelligence, Purchase Lines are counted as the line items on purchase orders processed through this application. This does not include communication on the same purchase order. For each application, you may not exceed the licensed number of Purchase Lines during any 12 month period unless you acquire additional Purchase Line licenses from us. You may acquire a different number of Purchase Line licenses for each program (the number of Purchase Lines for iProcurement could be a smaller number than for Purchasing Intelligence).

\$M in Revenue: is defined as one million U.S. dollars in all income (interest income and non interest income) before adjustments for expenses and taxes generated by you during a fiscal year.

RosettaNet Partner Interface Processes® (PIPs®): are defined as business processes between trading partners. Preconfigured system-to-system XML-based dialogs for the relevant E-Business Suite Application(s) are provided. Each preconfigured PIP includes a business document with the vocabulary and a business process with the choreography of the message dialog.

Service Order Line: is defined as the total number of service order entry line items processed by the program during a 12 month period. Multiple service order entry line items may be entered as part of an individual customer service order or quote. You may not exceed the licensed number of Service Order Lines during any 12 month period unless you acquire additional Service Order Line licenses from Oracle.

Subscriber: is defined as (a) a working telephone number for all wireline devices; (b) a portable handset or paging device that has been activated by you for wireless communications and paging; (c) a residential drop or a nonresidential device serviced by a cable provider; or (d) a live connected utility meter. The total number of Subscribers is equal to the aggregate of all types of Subscribers. If your business is not defined in the primary definition of Subscriber above, Subscriber is defined as each U.S. \$1,000 increment of your gross annual revenue as reported to the SEC in your annual report or the equivalent accounting or reporting document.

Suite: is defined as all the functional software components described in the product documentation.

Technical Reference Manuals

Technical Reference Manuals ("TRMs") are Oracle's confidential information. You shall use the TRMs solely for your internal data processing operations for purposes of: (a) implementing applications programs, (b) interfacing other software and hardware systems to the applications programs and (c) building extensions to applications programs. You shall not disclose, use or permit the disclosure or use by others of the TRMs for any other purpose. You shall not use the TRMs to create software that performs the same or similar functions as any of Oracle products. You agree: (a) to exercise either at least the same degree of care to safeguard the confidentiality of the TRMs as you exercise to safeguard the confidentiality of your own most important confidential information or a reasonable degree of care, whichever is greater; (b) to maintain agreements with your employees and agents that protect the confidentiality and proprietary rights of the confidential information of third parties such as Oracle and instruct your employees and agents of these requirements for the TRMs; (c) restrict disclosure of the TRMs to those of your employees and agents who have a "need to know" consistent with the purposes for which such TRMs were disclosed; (d) maintain the TRMs at all times on your premises; and (e) not to remove or destroy any proprietary or confidential legends or markings placed upon the TRMs. Oracle shall retain all title, copyright and other proprietary rights in the TRMs. TRMs are provided to you "as-is" without any warranty of any kind. Upon termination, you shall cease using, and shall return or destroy, all copies of the applicable TRMs.

Trainee: is defined as an employee, contractor, student or other person who is being recorded by the program.

Workstation: is defined as the client computer from which the programs are being accessed, regardless of where the program is installed.

Term Designation

If your program license does not specify a term, the program license is perpetual and shall continue unless terminated as



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otherwise provided in the agreement.

1, 2, 3, 4, 5 Year Terms: A program license specifying a 1, 2, 3, 4 or 5 Year Term shall commence on the effective date of the order and shall continue for the specified period. At the end of the specified period the program license shall terminate.

1 Year Hosting Term: A program license specifying a 1 Year Hosting Term shall commence on the effective date of the order and shall continue for a period of 1 year. At the end of the 1 year the program license shall terminate. A program license specifying a 1 Year Hosting Term may only be used for providing internet hosting services.

1 Year Oracle Hosted Term: A program license specifying a 1 Year Oracle Hosted Term shall commence on the effective date of the order and shall continue for a period of 1 year. At the end of the 1 year the program license shall terminate. A program license specifying a 1 Year Oracle Hosted Term must be hosted by Oracle.com via Computer and Administration services.

1 Year Subscription: A program license specifying a 1 Year Subscription shall commence on the effective date of the order and shall continue for a period of 1 year. At the end of the 1 year the program license shall terminate.

Licensing Rules

You are responsible for ensuring that the following user minimums are maintained per program that you license per named user plus:

Program Named User Plus Minimum

Oracle Database Enterprise Edition	25 Named Users Plus per Processor
Rdb Enterprise Edition	25 Named Users Plus per Processor
CODASYL DBMS	25 Named Users Plus per Processor
Message Broker	10 Named Users Plus per Processor
TopLink	10 Named Users Plus per Processor
Internet Application Server Standard Edition	10 Named Users Plus per Processor
Internet Application Server Enterprise Edition	10 Named Users Plus per Processor

You are responsible for ensuring that the following restrictions are not violated:

- Oracle Database Standard Edition may only be used on machines which have the ability to run a maximum of four processors.
- The number of Enterprise Edition option licenses, Enterprise Manager licenses and Rdb Server option licenses must match the number of licenses of the associated database.
- The number of Internet Application Server Enterprise Edition option licenses must match the number of licenses of the associated Internet Application Server.

Your license for the Oracle Database includes the right to run the database on an unlicensed spare computer for up to a total of ten separate days in any given calendar year. Any use beyond the right granted in the previous sentence must be licensed separately.



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AMENDMENT ONE
to the
ORACLE LICENSE AND SERVICES AGREEMENT v020703
Between
THE STATE OF ARIZONA
and
ORACLE CORPORATION

This Amendment One (“Amendment”) to the Oracle License and Services Agreement v020703 (“OLSA”) between the State of (the “State,” “you,” “Purchaser,” or “Customer”) and Oracle Corporation (“Oracle” or “Contractor” or “Vendor”) shall amend the OLSA as described below. The term “Contract” or “agreement” as used herein shall mean the OLSA together with this Amendment.

The parties hereby agree to amend the OLSA as follows:

1. Additional agreement terms.

The following terms are added to the agreement:

1.1. Term agreement.

The purpose of this Amendment One is to create a term agreement for procurement of software licensing and associated technical support and education services only, expiring November 30, 2008. Until expiration, orders for software licensing, associated technical support and education services may be placed under the terms of the agreement, and ordering documents for such orders will reference the agreement. Only Eligible Agencies that have previously acquired licenses for Oracle software may acquire licensing and associated services under this agreement. Signature by an Eligible Agency on an ordering document referencing this agreement and/or issuance of a purchase order referencing this agreement shall signify to Oracle that such Eligible Agency meets all the requirements set forth in this provision, bears all risk of its own non-compliance with such requirements, and is able to enter into the payment obligations of the applicable order.

1.2. Eligible Agencies.

This agreement shall be established for use by all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion, provided that any such university, political subdivision, or nonprofit educational or public health institution has entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes 41-2632.

1.3. Personal Use of Agreement Prohibited.

This agreement shall only be made available to the State its agencies and members of its purchasing cooperative (“Eligible Agencies” as described above). Private individuals, government employees and public officials shall not be permitted to use the agreement to make purchases for personal or business use (A.A.C. R2-7-105)



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1.4. Audit of Records.

Pursuant to A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records (“records”) relating to the acquisition and performance of the Contract for a period of five years after the completion of the term of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

1.5. Non-Discrimination in Employment.

The Contractor’s internal employment policies shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

1.6. Notices.

Notices to the Contractor required by this Contract shall be made by the State to Oracle Corporation, 500 Oracle Parkway, Redwood City, California, United States, 94065, Attention: General Counsel, Legal Department.

Notices to the State required by the Contract shall be made by the Contractor to:

Connie Gerdes, Procurement Specialist
State Procurement Office
100 North 15th Avenue, Suite 104
Phoenix, Arizona 85007
602-542-9138.

An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice and an amendment to the Contract shall not be necessary.

1.7. Advertising and Promotion of Contract.

The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval by the State.

1.8. Applicable Taxes.

- a) State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- b) Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and shall require all subcontractors to, hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker’s Compensation.



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- c) IRS W9 Form. In order to receive payment under any resulting Contract, Contractor shall have a current IRS W9 Form on file with the State of Arizona.

1.9. Force Majeure.

- a) Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract or an order placed under the terms of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
- b) Force Majeure shall not include the following occurrences:
 - i) Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
 - ii) Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
 - iii) Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- c) If either party is delayed at any time in the progress of the work by *force majeure*, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The parties shall attempt to negotiate and extension to the time of completion by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract; provided, however, if such an event continues for a period of over 90 days either party may terminate this Agreement immediately upon written notice.
- d) Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by *force majeure*.

1.10. Liens.

The Contractor warrants that the deliverables supplied under this Contract are free of liens.



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1.11. Year 2000 Warranty.

- a) Warranty: Notwithstanding any other warranty or disclaimer of warranty stated in the OLSA, Oracle warrants that the current production version of the Programs licensed under the agreement will meet the following definition of millennium compliance when configured and used according to the documented instructions. The definition of millennium compliance is the ability to:
- i) correctly handle date information before, during and after 1 January 2000, accepting date input, providing date output and performing calculation on dates or portions of dates;
 - ii) function according to the Documentation, during and after 1 January 2000 without changes in operation resulting from the advent of the new century, assuming correct configuration;
 - iii) where appropriate, respond to two digit date input in a way that resolves the ambiguity as to century in a disclosed, defined and predetermined manner;
 - iv) store and provide output of date information in ways that are unambiguous as to century;
 - v) manage the leap year occurring in the year 2000, following the quad-centennial rule.
- b) Exclusive Remedy: Notwithstanding the remedies for breach of warranty stated in the OLSA, the following states Customer's exclusive remedy for a material breach of the Year 2000 warranty specified in (a), above. Oracle will correct Program errors that cause the breach of the Year 2000 warranty, or, failing that, Oracle will pay Customer the actual, reasonable cost of replacing the off-the-shelf Program with off-the-shelf Year 2000 compliant software, if:
- i) such a Year 2000 error in the Program causes a complete or severe loss of service of the Program; and
 - ii) Oracle has not provided Customer with a patch, fix or Update to the Program to meet this Year 2000 warranty within a commercially reasonable period of time after receiving written notification of such Year 2000 error; and
 - iii) Customer then replaces the Program solely as a result of the breach of the Year 2000 warranty.

Except as set forth in this Section, Oracle shall have no liability for any Year 2000 related defect or problem in any customer software, systems or system components, or in interoperation of the Programs licensed hereunder with any other systems or system components.



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1.12. Insurance Requirements.

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE:

Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

General Aggregate	\$2,000,000
Products Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability Written and Oral	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.



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2. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$500,000
Disease Each Employee	\$500,000
Disease Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

- 1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
- 2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
- 3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to (State of Arizona Department Representative's Name & Address) and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an A.M. Best rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.



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- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to (State of Arizona Department Representative's Name and Address). The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

- F. **SUBCONTRACTORS:** Contractor certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

H. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

1.13. Contractor's Representations and Warranties - Survival of Rights and Obligations after Contract Expiration or Termination.

All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination by the State under section 1.14 below.



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1.14. Contract Termination.

- a) Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State ("Covered Person") is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. In support of the State's goal underlying ARS 38-511 (i.e., Oracle not employing a Covered Person during the respective 3 year period), the State shall notify Oracle in writing the names of the Covered Persons upon signing this Agreement, any amendments, and any Ordering Documents issued under this Agreement. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in this section for A.R.S. § 38-511.
- b) Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that an improper gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of materially influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any material determination or decision about contract performance.
- c) Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.
- d) Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, specifying the extent to which termination is intended and the date upon which such termination becomes effective, which shall be no less than thirty (30) calendar days after the notice is sent, the Contractor shall (i) immediately stop performance as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State, and (ii) submit to the State, in the form and with any certifications as may be prescribed by the State, Contractor's termination claim and invoice. The State shall pay all amounts accrued and unpaid for any license(s) and/or services delivered to the State prior to the effective date of the termination. Contractor retains all ownership in, and intellectual property rights to, the programs licensed under the Contract; ownership and use of any deliverables, documents, data and reports prepared by the Contractor under the Contract shall be subject to the pertinent provisions of the Contract.
- e) The State and/or any purchasing entity under this Contract shall be liable for all fees accrued up until any termination of the Contract under this section.



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1.15. Non-Availability of Funds.

Every payment obligation of the State under this agreement is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this agreement, the use of this agreement for future orders may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of such termination under this paragraph. The State and/or any Eligible Agency will not execute an ordering document and/or issue a purchase order for any order placed under the terms of the agreement unless all funds for the applicable order have been fully appropriated and are fully available.

1.16. Arbitration.

The parties agree to make a bona fide, good faith effort to resolve any disputes arising under this agreement by informal negotiations or mediation, except that the parties agree that the rights in Oracle Programs are not to be the subject of any negotiation or mediation. If the parties do not reach resolution within thirty (30) days (or a mutually agreed-upon reasonable extension of time) after either party requests such negotiations, the controversy shall be referred for mediation to the office of an Alternative Dispute Resolution (ADR) provider in a mutually agreed-upon location and the parties agree to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association. The mediator shall have a minimum of eight (8) years experience in the computer software industry. If the dispute is not resolved within sixty (60) days after beginning mediation, either party may seek whatever other remedies may be available to it at law or in equity. The obligations for negotiations or mediation hereunder shall not apply to either party's right to seek injunctive or other equitable relief to which it may be entitled.

1.17. Contract Claims.

Subject to the terms and conditions of this agreement, all contract claims or controversies under this agreement shall be resolved according to A.R.S. Title 41, Chapter 23 (Arizona Procurement Code), Article 9 (Legal and Contractual Remedies), and rules adopted thereunder.

1.18. General Indemnification.

Oracle shall indemnify, defend, save and hold harmless the State (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible personal property caused in whole or in part, by the grossly negligent or willful acts or omissions of an Oracle employee acting within the scope of his or her employment on the State's premises provided such actions or omissions were not caused by the customer or any third party. The term "tangible personal property" shall not include software, documentation, data, or data files. Oracle's liability includes Claims arising under federal, state or local law, statute, ordinance, rule, regulation or court decree, and excludes Claims arising from use of any software. The State shall promptly notify Oracle in writing of any claim for which Oracle may be liable under this paragraph and reasonably cooperate with Oracle in its defense of such claim; Oracle shall retain sole control with respect to any defense or settlement of such claim.

2. Modifications to OLSA v020703 terms.

The terms of the OLSA v020703 are modified as follows:



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2.1. Ownership and Restrictions.

In the section of the OLSA titled "Ownership and Restrictions," the following is added at the end of the first sentence of the section (after the word "services"): "permitted by the agreement."

2.2. Technical Support Level.

In the section of the OLSA titled "Technical Support," the following is added after the third sentence of the section: "The level of technical support provided by Oracle under this agreement will not be materially reduced for a period of 3 years from the effective date of this agreement."

2.3. Fees and Taxes.

The section of the OLSA titled "Fees and Taxes" (under the heading "GENERAL") is deleted and replaced with the following:

"Fees and Taxes

All fees payable to Oracle are due within 30 days from the invoice date. You also agree to pay any sales, or other applicable taxes permitted by the laws in the State of Arizona which Oracle must pay based on the programs or services you ordered. Fees listed in the agreement are exclusive of taxes. All taxes shall be charged at the appropriate rate by Oracle in addition to its stated fees and shall be shown separately on the relevant invoice."

2.4. Nondisclosure.

In the section of the OLSA titled "Nondisclosure," at the beginning of the third paragraph, the following is added: "To the extent permitted by statute,"

2.5. Entire Agreement – Ordering Document(s).

The following is added at the end of the section of the OLSA titled "Entire Agreement":

"Ordering Document. An Oracle ordering document placed under the terms of this agreement will contain a description of products, licensing metrics, license term, quantities, fees and terms of delivery for the applicable order and may contain additional terms specific to, or further descriptive of an order. The Ordering Document may not expand the scope of the agreement as set forth in section 1.1 (above) of the agreement."

2.6. Governing Law.

In the section in the OLSA titled "Other", in the first paragraph of the section is deleted and replaced with:

"This agreement shall be governed and interpreted by the laws of the State of Arizona, including the Arizona Procurement Code (A.R.S. §§41-2501, et seq.) and the Administrative rule promulgated there under (A.R.S. R2-7-901)."

	Attachment		State Procurement Office 100 N. 15th Ave Suite 104 Phoenix, AZ 85007-3223
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	VENDOR: Oracle Corporation - AZ	OF 25	

3. Agreement Pricing and Discounting Terms.

Agreement Pricing and Discounting Terms are attached as Exhibit A to this Amendment One. Pricing or discounting terms set forth in this agreement shall be renegotiated and updated in written amendment hereto, executed by Oracle and the State, no less often than annually (by or on the anniversary of the Effective Date of the most recently updated pricing and discounting terms).

If the parties do not execute an amendment updating pricing before pricing terms have expired, and/or at Contractor's discretion, Contractor may offer temporary promotional pricing on its software and services to any Eligible Agency. If a promotional offer is accepted by an Eligible Agency, any order under the promotional offer shall be subject to the particular promotion terms set forth in the ordering document and the terms of this agreement.

4. Exhibits to Amendment One:

Exhibit A Pricing and Discounting Terms

Other than the amended terms set forth herein, the terms and conditions of the agreement shall remain unchanged and in full force and effect.

The Effective Date of this Amendment One shall be October 31, 2003.

THE STATE OF ARIZONA

ORACLE CORPORATION

By: J.O.A.
 Name: JOHN O. ADLER
 Title: SPO ADMINISTRATOR
 Date: 11-3-03

By: [Signature]
 Name: DOUGLAS W. DORAN
 Title: MANAGER, OSGH CONTRACTS
 Date: 10/31/2003



Pricing Schedule

State Procurement Office

100 N. 15th Ave

Suite 104

Phoenix, AZ 85007-3223

Contract No.: AD040034-001

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E
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OF
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Vendor: Oracle Corporation - AZ

EXHIBIT A

to the

OLSA between the State of Arizona and Oracle Corporation

Pricing and Discounting Terms Valid through November 30, 2004

PRICING AND DISCOUNTING TERMS FOR NEW PROGRAM LICENSES AND FIRST YEAR TECHNICAL SUPPORT

Price List. Until November 30, 2004, the "Price List" as used herein shall be mean pages 1-4 and pages 7-13 of Oracle's February 10, 2003 E-Business Global Price List (attached hereto as Attachment I to this Exhibit A); pages 5-6 of Oracle's February 10, 2003 E-Business Global Price List are not made a part of the terms of this Exhibit A and any reference to Oracle's February 10, 2003 E-Business Global Price List or the "Price List" in this Exhibit shall mean only pages 1-4 and pages 7-13 of Oracle's February 10, 2003 E-Business Global Price List.

Oracle's License Definitions and Rules, version 020703, is attached hereto as Attachment II to this Exhibit A and shall apply to all orders for licensing under the Price List defined above and this Exhibit A. If and when the Price List (as defined above in this section) is updated or replaced in either this Exhibit A and/or the Agreement, the License Definitions and Rules shall also be updated to reflect Price List updates.

Pricing and Discounts. Until November 30, 2004, provided that an Eligible Agency has continuously maintained technical support for its existing Program licenses, such Eligible Agency may acquire licenses for the Programs listed on the Price List, provided such Programs are available in production release when ordered, by paying Oracle the fees specified for such licenses on the Price List less the discount determined by the Discount Schedule set forth below. An Eligible Agency may also acquire first year Software Updates and/or first year Product Support for such programs by paying Oracle the fees specified for such services on the Price List less the discount determined by the Discount Schedule set forth below.

Discount Schedule. Until November 30, 2004, the following Discount Schedule shall apply to fees listed on the Price List for Program licenses, first year Software Updates and/or first year Product Support for such licenses acquired pursuant to the terms of the Agreement (the Transaction Band amount shall be determined per order; each order placed pursuant to this schedule shall be considered a separate transaction and orders by individual Agencies/Divisions will not aggregate to increase the overall discount.)

<u>Transaction Band</u> <u>(List License + List</u> <u>Support)</u>	<u>E-Business</u> <u>License and Technical</u> <u>Support Discounts</u>
\$0 - \$100,000	25%
\$100,001 - \$250,000	30%
\$250,001 - \$375,000	35%
\$375,001 +	40%

If and when the Price List (as defined above in this section) is updated or replaced in the Agreement, this Discount Schedule shall no longer apply and discounting terms shall be re-negotiated.

End of Contract AD040034 - 001 Document