

ORACLE CLOUD MARKETPLACE AGREEMENT

PLEASE SCROLL DOWN AND READ ALL OF THE FOLLOWING TERMS CAREFULLY. THIS DOCUMENT IS A LEGAL AGREEMENT STATING THE TERMS AND CONDITIONS THAT GOVERN YOUR ACTIVITIES ON THE ORACLE CLOUD MARKETPLACE. YOU ARE ENTERING INTO THIS ORACLE CLOUD MARKETPLACE AGREEMENT ON BEHALF OF YOUR COMPANY AND REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH COMPANY TO THESE TERMS AND CONDITIONS. THE TERMS “YOU” AND “YOUR” REFER TO SUCH LEGAL ENTITY AND BY CLICKING “ACCEPT” (OR THE EQUIVALENT) OR BY LOADING MARKETPLACE CONTENT ON THE ORACLE CLOUD MARKETPLACE YOU ARE AGREEING TO ALL OF THE TERMS AND CONDITIONS STATED HEREIN. IF YOU DO NOT AGREE OR ARE NOT AUTHORIZED TO ACCEPT THESE TERMS ON BEHALF OF YOUR COMPANY, DO NOT CLICK “ACCEPT” (OR THE EQUIVALENT) AND DO NOT ACCESS THE ORACLE CLOUD MARKETPLACE.

This Oracle Cloud Marketplace Agreement (this “**Agreement**”) is between You and Oracle America, Inc. and its affiliates (“**Oracle**”). This Agreement includes the terms set forth and referenced herein and the below-listed appendices which are attached hereto as of the effective date of this Agreement (and any other appendices to this Agreement as may be separately agreed-to in writing by both parties) (each, an “**Appendix**”):

- Appendix A (Additional Terms for Quick Deployment Listings)
- Appendix B (Additional Terms for Paid Publisher Listings)

In addition, except as otherwise expressly set forth herein, this Agreement incorporates by reference those terms of the Oracle PartnerNetwork Agreement in place between You and Oracle related to the following: nondisclosure, privacy and data protection, limitation of liability, relationship of the parties, governing law and venue, assignment, statute of limitations, force majeure, and notice (the “**Incorporated OPN Terms**”).

A. Definitions

The following definitions apply for the purposes of this Agreement:

“**Customer(s)**” means third parties who seek or acquire Your Marketplace Content and does not include You or Your affiliated entities.

“**Customer Information**” means any data or information to which You have access in connection with the Oracle Cloud Marketplace or otherwise as a result of this Agreement, including data or information concerning any Customer, any transaction, or any use of Oracle cloud services offered by Oracle with Marketplace Content.

“**Lead Generation Listing**” or “**Lead-Gen Listing**” means a Listing that is limited to information about, or advertising for, a product or service offered directly by You and does not include any Listing pursuant to which a Customer may transact or deploy such Listing directly from the Oracle Cloud Marketplace. A Lead-Gen Listing allows a potential Customer to submit contact information to You.

“**Listing**” means the entry or description of Your Marketplace Content on the Oracle Cloud Marketplace. Listing types include Lead-Gen Listings and any other Listing types identified in an applicable Appendix.

“**Marketplace Content**” means any Listing and its associated content that You promote, license, sell, or grant access to Customers through the Oracle Cloud Marketplace including but not limited to content delivered via a software-as-a-service model, any related technical support or other services You provide, content description information, and any marketing or promotion materials related to Your products and services.

“**Oracle Cloud Marketplace**” means the marketplace(s) operated by Oracle located at <https://cloudmarketplace.oracle.com>, as Oracle may update from time to time.

“**Oracle Cloud Marketplace Partner Portal**” means the portal through which You may create, submit, and manage Your Marketplace Content on the Oracle Cloud Marketplace, accessible through <https://partners.oracle.com/> (the “**Partner Hub**”), and any and all information listed in the Oracle Cloud Marketplace section of the Partner Hub or at <https://docs.oracle.com/en/cloud/marketplace/partner-portal/index.html> as Oracle may update from time to time.

“**Policies**” means all policies listed on the Oracle Cloud Marketplace Partner Portal, including but not limited to the Oracle Cloud Marketplace Publishing Guidelines, Territory Policy, Tax Policies, and any other policy or terms or document referenced in or incorporated into this Agreement.

B. Use of the Oracle Cloud Marketplace

Oracle grants You the right to list and publish Marketplace Content on the Oracle Cloud Marketplace for access by Customers, subject to the terms of this Agreement and the Policies, and provided You have at all times a valid membership in the Oracle PartnerNetwork (“**OPN Membership**”) and continuously meet all other eligibility requirements specified in the Oracle Cloud Marketplace Partner Portal. In connection with Your use of the Oracle Cloud Marketplace, You may not, and may not cause or permit others to use the Oracle Cloud Marketplace 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. Except as described in an applicable Appendix, You may only engage in Lead-Gen Listings and not other Listing types.

C. Marketplace Content

C.1. Review of Marketplace Content. To begin creating a Listing, You must submit Your proposed Marketplace Content to Oracle for review as described in the Oracle Cloud Marketplace Partner Portal, and Oracle may accept or reject Marketplace Content for any reason. You are responsible for evaluating and testing Marketplace Content before submitting it to Oracle to confirm that it complies with this Agreement, including the Policies, and operates properly with any Oracle cloud services with which it is intended to be used. Oracle may review Marketplace Content at any time, including for security-related concerns and to check the accuracy of descriptions and other materials in Marketplace Content and You will cooperate with Oracle’s review.

C.2. Responsibility for Your Marketplace Content. You are responsible for Your Marketplace Content. Oracle will direct all Customers' questions regarding Marketplace Content to You. You will establish the pricing, license rights and other terms governing Customers' use of Marketplace Content ("**Your Customer Terms**"); provided, however, that Your Customer Terms shall not purport to make representations or commitments on behalf of Oracle or otherwise modify the Oracle terms that govern Customers' use of Oracle cloud services that may be used in conjunction with Marketplace Content. You will ensure that all information about Marketplace Content (including information about applicable fees) displayed on the Oracle Cloud Marketplace is, at all times, accurate, complete, not misleading, and in compliance with applicable law. Except as provided in this Agreement, Oracle obtains no rights under this Agreement from You to Marketplace Content. You will be the seller of record for Marketplace Content. Except as expressly set forth in an applicable Appendix, Oracle is not involved in any underlying transaction between You and any Customer. Oracle is not responsible for any dispute between You and any Customer. You may not include in Marketplace Content any advertisements, promotions, or opportunities for a Customer to purchase products or services that You do not list in the Oracle Cloud Marketplace.

C.3. Removal of Listings. You may remove any of Your Listings from the Oracle Cloud Marketplace at any time using the functionality available in the Oracle Cloud Marketplace Partner Portal. Oracle may remove any Listing from the Oracle Cloud Marketplace at any time, and Oracle will use reasonable efforts to notify You if Oracle removes Your Listing from the Oracle Cloud Marketplace during the term of this Agreement. Removal of a Listing from the Oracle Cloud Marketplace will render that Listing unavailable to prospective Customers and will not impact usage rights that You have granted to current Customers of that Listing.

C.4. Technical Support and Customer Service. You are responsible for technical support (if any) for Marketplace Content. All questions regarding Marketplace Content received by Oracle will be referred to You. Oracle will not provide any technical support for Marketplace Content.

C.5. Customer Information. Except as expressly permitted by Oracle or the applicable Customer, You may use Customer Information only (i) to communicate with Customers who acquire, or seek to acquire, rights in Marketplace Content for purposes of transacting, activating, configuring, operating, or providing support or training for, the Marketplace Content; or (ii) for computation of Your internal sales metrics. Except as expressly permitted by Oracle or the applicable Customer, You may not: (a) disclose any Customer Information to any third party, except as necessary for You to perform Your obligations under this Agreement and only if You ensure that every recipient uses the information only for that purpose and complies with any restrictions applicable to You; (b) use any Customer Information for any marketing or promotional purposes; or (c) target communications of any kind based on the intended recipient being a Customer. You may not use Customer Information in a way inconsistent with applicable law or to disparage Oracle or its affiliates or its respective products.

C.6. Other Rights. You grant Oracle a nonexclusive, worldwide license to use Your trademarks and logos in the form You provide them to Oracle (with any modifications to optimize their viewing) for marketing Your Marketplace Content or the Oracle Cloud Marketplace. For Lead-Gen Listings, You grant Oracle a nonexclusive, worldwide license to reproduce, display, transmit, promote and review the Lead-Gen Listing on the Oracle Cloud Marketplace. Oracle may assign or delegate to, or permit its affiliates and independent contractors to exercise or perform, any of its rights or obligations under this Agreement, provided Oracle is responsible for their compliance with the terms of this Agreement.

D. Term and Termination; Wind-Down Period

D.1 Term and Termination. This Agreement shall become effective as of the effective date of Your acceptance of this Agreement, and shall be valid for a term of two years after such effective date unless terminated earlier as set forth herein. This Agreement shall automatically terminate if Your OPN Membership expires or is terminated. Either party may terminate this Agreement upon written notice to the other at any time during which You have no active Listings on the Oracle Cloud Marketplace. Upon the expiration or termination of Your OPN Membership or this Agreement, Your right to maintain Listings on the Oracle Cloud Marketplace or otherwise access or use the Oracle Cloud Marketplace shall immediately cease. If You enter into a new Oracle PartnerNetwork Agreement during the term of this Agreement, then the Incorporated OPN Terms (as defined above) shall be those of such new Oracle PartnerNetwork Agreement, provided that there has been no lapse in Your OPN Membership. Provisions of this Agreement (including the Incorporated OPN Terms) that survive termination or expiration are those relating to limitation of liability, indemnification, payment, and others which by their nature are intended to survive.

D.2 Wind-Down Period. Expiration or termination of this Agreement shall not terminate any rights to Marketplace Content that You have granted to Customers in connection with this Agreement, and You remain responsible for any such commitments; Oracle has no responsibility for terminating such Customers' access to Your Marketplace Content. If a Customer requires access to Oracle products or services for use in conjunction with Your Marketplace Content, it is such Customer's responsibility to procure and maintain its rights to use such Oracle products or services.

E. Indemnification

You shall, at Your expense, indemnify and defend Oracle and its directors, officers, employees and agents from and against any and all liabilities, losses, damages, costs, and expenses in connection with: (1) any third-party claim that Your Marketplace Content infringes any intellectual property, proprietary or personal right of a third party; or (2) any third-party claim related to the functionality, availability, performance, or security of Your Marketplace Content.

Oracle will promptly notify You in writing of any claim subject to the indemnity in this section, but Oracle's failure to promptly notify You will only affect Your obligations under this section to the extent that Oracle's failure to notify You prejudices Your ability to defend the claim. Oracle will provide You with reasonable assistance, information and authority to perform Your obligations under this section. You will not enter into a settlement agreement requiring payment or any other affirmative act by Oracle without Oracle's written consent.

F. Disclaimer of Warranties

ANYTHING THAT ORACLE PROVIDES UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE ORACLE CLOUD MARKETPLACE, IS PROVIDED "AS IS," "AS AVAILABLE," "WITH ALL FAULTS" AND WITHOUT WARRANTY OF ANY KIND. ORACLE, ORACLE'S AFFILIATES AND ORACLE'S LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE CLOUD MARKETPLACE OR ANY PRODUCTS, PROGRAMS, CLOUD SERVICES OR SERVICES PROVIDED BY OR ON BEHALF OF ORACLE IN CONNECTION WITH THIS AGREEMENT. EXCEPT TO THE EXTENT PROHIBITED BY LAW, THIS DISCLAIMER

OF WARRANTY COVERS ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.

G. Export Compliance

Your use of the Oracle Cloud Marketplace is subject to Your compliance with all export laws and regulations as set forth in the then-current Territory Policy available on the Oracle Cloud Marketplace Partner Portal as Oracle may update from time to time. You may only transact business for each type of listing in accordance with all restrictions as to Your domicile, Customer domicile, currency, and data center domicile as specified in the Territory Policy.

H. Entire Agreement

This Agreement (including the Incorporated OPN Terms and the Policies) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous communications. It is Your responsibility to regularly monitor all applicable URLs referenced in this Agreement. It is expressly agreed that the terms of this Agreement shall supersede the terms in any non-Oracle document or non-Oracle online ordering system and no such terms shall apply to transactions under this Agreement.

APPENDIX A ADDITIONAL TERMS FOR QUICK DEPLOYMENT LISTINGS

The terms of this Appendix supplement and/or modify the terms of the Agreement with respect to Your participation in Quick Deployment Listings. The terms of this Appendix control over any conflicting terms in the Agreement with respect to the subject matter hereof.

The following additions/modifications apply for purposes of this Appendix:

1. The following definitions are added to Section A (Definitions):

“Free or Open Source Software” or “FOSS” means any software that (a) is distributed under a license listed as an OSI approved license at <http://www.opensource.org/licenses> or (b) is subject to terms that, as a condition of use, copying, modification, or redistribution, require such software and/or derivative works thereof to be disclosed or distributed in source code form, to be licensed for the purpose of making derivative works, or to be redistributed free of charge.

“Quick Deployment Listing” means a Listing which includes the ability of the Customer to download, deploy or provision Your Marketplace Content directly from the Oracle Cloud Marketplace. Except as set forth in a separate Appendix, Oracle does not perform billing of Customers for Quick Deployment Listings. Quick Deployment Listings for which Oracle does not perform billing of Customers may sometimes be referred to in the Oracle Cloud Marketplace Partner Portal or the Policies as **“Bring Your Own License and/or Free”** Listings.

2. The following is added the end of Section C.1 (Review of Marketplace Content):

“For Quick Deployment Listings, Oracle’s review may include testing of Marketplace Content for the purposes described in this section.”

3. The following is added to the end of Section C.2 (Responsibility for Marketplace Content):

“You shall ensure that Marketplace Content is free of any malware, trojan, or other disabling device in or delivered with the Marketplace Content, and that there is no vulnerability of the Marketplace Content or anything delivered in or with the Marketplace Content, in each case allowing the Marketplace Content’s or the systems running the Marketplace Content or any other software’s or system’s security to be bypassed or compromised so as to permit control of or access to the Marketplace Content or other software or systems by any unauthorized party.”

4. The following is added at the end of Section C.3 (Removal of Listings):

“You shall ensure that all software in Marketplace Content is up-to-date with all critical bug fixes and patches applied, and contains no known security vulnerabilities, as reported in the CVE database at nvd.nist.gov or in the defect tracking system of any software component included in the Marketplace Content. If Oracle determines that an update to Marketplace Content is necessary, Oracle may request that You update Marketplace Content and resubmit it in accordance with this section. If You fail to update Marketplace Content within the time specified in such notice, then Oracle reserves the right to remove it from the Oracle Cloud Marketplace.”

5. The following is added after the second sentence of Section C.6 (Other Rights):

“For Quick Deployment Listings, except for any FOSS that is included as part of the Marketplace Content for which You cannot grant a separate license, You grant Oracle a nonexclusive, worldwide license to: (a) reproduce, distribute, display, transmit, promote, test, review, and otherwise digitally make available (via all means of online and electronic distribution), Marketplace Content, including associated terms and pricing, and (b) access, display, promote, and otherwise use Marketplace Content for demonstrating Marketplace Content for potential Customers. Except for the separately licensed FOSS described in the preceding sentence, use of or access to Marketplace Content by Oracle for the purposes specified in the preceding sentence is under the foregoing license and the terms of this Agreement, and such license expressly supersedes any click-through, browse wrap, and/or other terms related to Marketplace Content.”

6. The following new section is added as Section C.7 (FOSS):

“C.7. FOSS. Each party acknowledges that Marketplace Content may include certain third-party software licensed under a FOSS license, which has been compiled by You for inclusion in Marketplace Content. You are solely responsible for compliance with FOSS license terms and conditions. FOSS identified as such as part of the delivery process to Oracle is licensed to Oracle and Customers under the terms of the identified FOSS licenses and not under this Agreement. Nothing in this Agreement shall be interpreted to impose any restrictions on rights granted with respect to any FOSS. The documentation that You provide with the Marketplace Content shall include a complete and accurate list of any FOSS that is included in such Marketplace Content. To the extent that You include any FOSS in Marketplace Content where the source code and/or modified source code must be made available by You pursuant to the terms of the associated FOSS license, You will also provide the source code and/or the website for the source code and any modified source code to Oracle with the delivery of Marketplace Content. Oracle and You agree to negotiate in good faith to resolve any disagreement between You and Oracle regarding whether You are obligated to make any source code available pursuant to the terms of the associated FOSS license.”

APPENDIX B ADDITIONAL TERMS FOR PAID PUBLISHER LISTINGS

The terms of this Appendix supplement and/or modify the terms of the Agreement with respect to Your participation in Paid Publisher Listings. The terms of this Appendix control over any conflicting terms in the Agreement with respect to the subject matter hereof.

In addition to the terms set forth below in this Appendix, the terms of Appendix A (Additional Terms for Quick Deployment Listings) are applicable to Your participation in Paid Publisher Listings. For the avoidance of doubt: notwithstanding anything in this Appendix, participation in Paid Publisher Listings is limited based on publisher and customer domicile, as set forth in the Territory Policy; if at any time Your domicile is not a permitted publisher domicile as set forth in the Territory Policy, then You may not engage in Paid Publisher Listings.

The following additions/modifications apply for purposes of this Appendix:

1. The following definitions are added to Section A (Definitions):

"Paid Publisher Listing" means a Listing for which Oracle processes the payment of fees or other charges paid by Customers in connection with use of Marketplace Content. Unless otherwise agreed by You and Oracle, Paid Publisher Listings must be Quick Deployment Listings.

"Publishing Fees" means 3% of the Transaction Proceeds, as defined below, which Oracle shall withhold as its fee for services rendered under this Agreement for all Paid Publisher Listing transactions.

"Transaction Proceeds" means the Net Fees received by Oracle from any transaction in which Oracle is performing the billing for Your Paid Publisher Listing on the Oracle Cloud Marketplace. **"Net Fees"** shall mean: fees allocated based on a Customer's usage of Paid Publisher Listing which is billed by Oracle on Your behalf, net of any return adjustments; fraud adjustments; or sales, use, excise, import, export, value-added, withholding, or other taxes or duties assessed, incurred, or required to be collected. In the event that any adjustments occur in a payment period in which Oracle receives no Publishing Fees, Oracle shall invoice You for such adjustment and You shall reimburse Oracle for such adjustment.

2. The following is added at the end of Section D.2 (Wind-Down Period):

"Following expiration or termination of this Agreement, Oracle will continue to perform billing in accordance with this Agreement with respect to Paid Publisher Listings that were transacted during the term hereof until the earlier of such time as: (1) You disable the Customer's access to the Marketplace Content; or (2) the Customer ceases to run the Marketplace Content on Oracle Cloud Infrastructure ("**OCI**"), whether due to expiration or termination of such OCI services or otherwise."

3. The following new section is added as Section H (Additional Terms for Paid Publisher Listings):

"I. Additional Terms for Paid Publisher Listings"

I.1. Processing of Transactions. You hereby appoint Oracle as Your payment processing agent for the limited purpose of receiving payments on Your behalf from Customers in connection with Paid Publisher Listing transactions of Marketplace Content on the Oracle Cloud Marketplace ("**Transactions**"). On Your behalf, Oracle will process billing, payments, and collections of the applicable Transaction Proceeds. Oracle does not guarantee payment on behalf of any Customers. You will ensure that all fees and charges payable by Customers for Transactions are billed and collected through Oracle. Oracle may impose transaction limits on some or all Customers and sellers relating to the value of any Transaction or disbursement, the cumulative value of all Transactions or disbursements during a time period, or the number of Transactions per day or other time period. Oracle may withhold for investigation, or refuse to process, any Transaction that Oracle suspects is fraudulent, unlawful, or otherwise violates the terms of this Agreement or the Policies.

I.2. Payment to You. Oracle will pay to You Transaction Proceeds, less any Publishing Fees due to Oracle, within 30 days from the end of the month in which settlement of the Transaction Proceeds occurred, where "**settlement**" refers to either (1) Oracle's receipt of payment from the Customer, in cases where Oracle has invoiced the Customer for payment of the relevant Paid Publisher Listing fees, or (2) Oracle's draw-down of prepaid Oracle PaaS and IaaS Universal Credits ("**Universal Credits**") from the Customer's account, in cases where Oracle has allowed the Customer to redeem such Universal Credits towards the relevant Paid Publisher Listing fees. Oracle may withhold, deduct, or setoff any amounts payable by You to Oracle or Oracle's affiliates against any Transaction Proceeds. No Transaction Proceeds will be payable to You for Oracle's use of Your Marketplace Content for the purposes described in Section C. All payments to You will be sent through the Automated Clearing House (ACH) system to Your designated bank account. If there is an error in the processing of any banking transaction, You authorize Oracle to debit or credit Your designated bank account, to correct such error, provided that any such correction is made in accordance with applicable Oracle policies and legal regulations. If Oracle cannot debit Your designated bank account for any reason, You authorize Oracle to resubmit the debit, plus any applicable fees, to any other bank account or payment instrument that You have on file with Oracle or to deduct the debit and applicable fees from future Transaction Proceeds. Oracle may elect to treat as Transaction Proceeds amounts owed but not yet paid by a Customer for a Paid Publisher Listing (including by allowing a Customer to redeem Universal Credits that have not yet been paid-for), and if Oracle does so and pre-pays such amounts to You in advance of receiving payment from the Customer, and the Customer does not pay Oracle, Oracle may offset any such prepaid amounts against future payments to You of Transaction Proceeds or require You to refund to Oracle any such prepaid amounts.

You will bear all risk of fraud or loss, including the risk of chargebacks or credit card fraud associated with Your sale or license of Paid Publisher Listings. If Oracle receives a chargeback or determines a payment related to a Transaction resulted from fraud, then You will promptly reimburse Oracle for the total amount of any applicable fees paid to You, as well as all credit card association, bank, or other payment processing, re-presentment, and/or penalty fees associated with the original Transaction.

I.3. Taxes. Your use of the Oracle Cloud Marketplace is subject to the Oracle Cloud Marketplace Paid Listings Tax Policies ("**Tax Policies**") available on the Oracle Cloud Marketplace Partner Portal as Oracle may update from time to time.

I.4. Cancellations and Refunds. You will post Your cancellation and refund policy in the Publishing for Marketplace Content in the Oracle Cloud Marketplace, which policy must not purport to impose any obligations on Oracle or otherwise conflict with the terms of this Agreement. Any refunds to Customers for Paid Publisher Listings are Your sole responsibility, and You must handle any such refunds outside of the Oracle Cloud Marketplace.

I.5 End of Life Status for Paid Publisher Listings. You shall not move to end of life status a SKU for a Paid Publisher Listing for at least 90 days following written notice of the same by You to the affected Customer(s).

I.6 Regulatory Acknowledgement. You agree that You shall not publish a Paid Publisher Listing on the Oracle Cloud Marketplace if the purchase of such Paid Publisher Listing and/or Your provision of related services to the Customer may be funded in whole or in part by Medicare, Medicaid, or any other federal or state funded healthcare program."