

## CUSTOMER PARTICIPATION CONFIDENTIALITY AGREEMENT

This Customer Participation Confidentiality Agreement (the "Agreement") is made between **City and County of San Francisco** ("Participant") and Oracle America, Inc. and/or its affiliates under common control ("Oracle"). Participant and Oracle shall be collectively referred to as the "Parties". The Parties are interested in having Participant take part in collaboration projects with Oracle for the purpose of providing Oracle ideas for new products, features, or services and/or improvements to existing products, features or services; and the Parties agree as follows:

1. **Scope.** The terms in this Agreement shall apply to discussions and information provided as part of various collaboration projects and/or Oracle customer advisory boards, working groups or councils in which Participant may take part ("Project(s)"). Participant's involvement in each such Project will be governed by this Agreement and a Project Attachment signed by both Parties. All Project Attachments shall be in the form of the sample attached as Exhibit 1.

2. **Confidential Information.** "Confidential Information" is defined as only the following information:

a. **"Oracle Confidential Information"** shall mean the following information or material provided by Oracle to Participant in connection with a Project during the Disclosure Period specified in the applicable Project Attachment: (a) all software and documentation; (b) all other products and services, product and service plans, and related documentation or information; (c) financial and marketing information and projections; (d) personally identifiable information of Oracle's employees, vendors, partners and customers; and (e) any other material or information that is either marked by Oracle as confidential or is disclosed by Oracle under circumstances in which one would reasonably expect it to be confidential.

b. **"Participant Confidential Information"** shall mean the following information or material disclosed by Participant in connection with a Project to Oracle during the Disclosure Period specified in the applicable Project Attachment: (a) information regarding the strategic direction of Participant's business; (b) Participant's financial information and projections; (c) personally identifiable information of Participant's employees, vendors, partners and customers; and (d) any other material or information that is marked by Participant as confidential. Participant agrees to provide Participant Confidential Information to Oracle if and only to the extent necessary to provide Feedback (as defined below).

3. **Feedback.** "Feedback" shall mean any input regarding Oracle's products and/or services, including changes or suggested changes to Oracle's current or future products and/or services, as well as any Recordings (as defined in Section 5 below). Notwithstanding anything in Section 2 above and/or any restrictive markings, Feedback shall not be considered Confidential Information and shall be received and treated by Oracle on a non-confidential and unrestricted basis. Participant hereby grants to Oracle a worldwide, royalty-free, non-exclusive, perpetual, and irrevocable license to use, copy, and modify Feedback for any purpose, including but not limited to incorporation or implementation of such Feedback into an Oracle program or service, and to display, market, sublicense and distribute Feedback as incorporated or embedded in any product or service distributed or offered by Oracle. Except with Participant's prior written approval, Oracle agrees that it will not publicly release the Feedback in a way that directly or indirectly connects the Feedback with the Participant or its employees; however, Oracle may employ third party contractors who may be asked to review the Feedback on Oracle's behalf, and Participant agrees that such review by third parties is not a violation of Oracle's commitments under this Agreement. Notwithstanding the foregoing, any third party review of Participant's Feedback shall be consistent with the terms of this Agreement. Should Participant disclose to Oracle information regarding the

technology products and/or systems used by Participant, such information shall not be considered Confidential Information under this Agreement and Oracle may use such information without restriction; however, the fact that Participant itself uses such technology product and/or systems shall be deemed Participant Confidential Information.

4. **Exclusions.** This Agreement imposes no obligation upon the Parties with respect to Confidential Information that (a) is or was rightfully received by the receiving party from a third party that does not have a duty of confidentiality regarding such confidential Information; (b) is disclosed by the disclosing party to a third party without a duty of confidentiality on the third party; (c) is or becomes a matter of public knowledge through no fault of the recipient; or (d) is independently developed by the receiving party without use of Confidential Information of the disclosing party.

5. **Recordings.** Participant agrees that, if specified in the relevant Project Attachment, Project sessions may be recorded by Oracle, including but not limited to audio, video recording and/or screen images ("Recordings"). All such Recordings shall be Feedback, subject to any restrictions contained in section 3 ("Feedback") above. Notwithstanding the foregoing, Participant and/or its individual employees may limit or terminate recording of any session.

6. **Participant Notices to Employees.** Participant agrees to advise its employees about the terms and conditions of this Agreement and the relevant Project Attachment. In particular, Participant agrees to advise employees that their participation is voluntary; they will not be personally identified in the results reporting; they may elect not to participate in some or all aspects of the sessions, including Recordings; and they may withdraw at any time.

7. **Protection and Use of Confidential Information.** The Parties shall use the other's Confidential Information solely for the purpose of participation in the Project identified in the applicable Project Attachment. The Parties shall protect one another's Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent unauthorized use, dissemination or publication of the Confidential Information as the Parties use to protect their own confidential information of a like nature. Except as required by law, the Parties will hold one another's Confidential Information in confidence for the term specified in the relevant Project Attachment. The obligations stated in this section shall survive expiration or termination of this Agreement.

8. **Disclaimer.** This Agreement is intended to provide for information sharing only and is not a commitment to deliver any material, code, or functionality. Any information provided under this Agreement is subject to change at any time and, accordingly, should not be relied upon in making purchasing decisions. The development, release, and timing of any features or functionality for Oracle's products and services remain at Oracle's sole discretion. Participant should not rely on the future availability of any future product or service.

9. **Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR DATA USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, IN ANY WAY CONNECTED WITH THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. **Miscellaneous.** This Agreement and any Project Attachments hereunder (including any exhibits, attachments, addenda, and supplements thereto) shall be the complete and exclusive statement of the agreement between the Parties as to Feedback or Confidential Information disclosed under this Agreement and shall supersede all prior or contemporaneous agreements concerning such Feedback or Confidential Information, whether written or oral, and shall be binding upon each of the Parties hereto, their respective successors, and to the extent permitted their assigns.

- a. This Agreement cannot be amended or otherwise modified, except as agreed to in writing by each of the Parties hereto.
- b. The Parties do not intend that any agency or partnership relationship be created between them by this Agreement.

- c. The Parties agree that under no circumstances will beta software programs be provided to Participant under this Agreement. The Parties must sign a separate Beta Agreement or Addendum, which shall govern any beta software programs that may be provided to Participant.
- d. The Parties agree that under no circumstances will access to Oracle's networks be provided to Participant under this Agreement. The Parties must sign a separate Network Access Agreement, which shall govern any access to Oracle's networks that may be provided to Participant.

11. **Order of Precedence.** In the event of any inconsistencies between this Agreement and any Project Attachments, the conflicting term(s) of the relevant Project Attachment shall take precedence.

---

**Effective Date: October 16, 2017**

**By signing below, you are representing that you have signatory authority to bind your organization to the terms of this Agreement.**

**ORACLE AMERICA, INC.**

**CITY AND COUNTY OF SAN FRANCISCO**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Exhibit 1**

**PROJECT ATTACHMENT**

for

**CUSTOMER PARTICIPATION CONFIDENTIALITY AGREEMENT**

This Project Attachment (“Attachment”) incorporates by reference the terms of the Customer Participation Confidentiality Agreement dated October 16, 2017 between City and County of San Francisco (“Participant”) and Oracle America, Inc. (“Oracle”) (the “Agreement”).

**1. Description of the Project.**

Participation in Customer Advisory Board Sessions, Strategic and Industry Specific User Councils, Focus Group Sessions, Guide Groups, Requirement and Design Reviews, User Experience Activities and other customer forums with the purpose of providing input and suggestions for Oracle products and/or services.

**2. Disclosure Period and Term.** The Agreement and this Attachment controls only Feedback and Confidential Information related to the Project described directly above that is disclosed between the Effective Date of this Attachment and October 16, 2020 (“Disclosure Period”). The parties shall hold one another’s Confidential Information in confidence for a term of three (3) years from the end of the Disclosure Period.

**3. Recordings.** Oracle may  / may not  record Project sessions (Please check one).

**4. Other Terms.**

Effective Date: **October 16, 2017**

**ORACLE AMERICA, INC.**

**CITY AND COUNTY OF SAN FRANCISCO**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title