

EXHIBIT D

LICENSE AGREEMENT

between

ORACLE FINANCE S.À.R.L.

and

ORACLE EMEA LIMITED

Signature Page

This License Agreement ("Agreement") is made between Oracle Finance S.à.r.l. ("FINANCE"), having its registered office at 8-10 rue Mathias Hardt, L-1717 Luxembourg, registered with the Luxembourg trade and companies register under registration number B107323, and Oracle EMEA Limited ("OEMEA"), having its principal offices at Block C, Eastpoint Business Park, East Wall Road, Dublin 3, Ireland.

AGREEMENT ACKNOWLEDGMENT

The undersigned hereby acknowledge that they have read and that they fully understand the terms of this Agreement.

The undersigned hereby agree that by signing this document they become parties to this Agreement and agree to be bound by all terms, conditions, and obligations contained herein.

"Territory" shall be deemed to be Albania, Andorra, Armenia, Austria, Azerbaijan, Bahrain, Belgium, Belarus, Bosnia, Bulgaria, Croatia, Corsica, Cyprus, Czech Republic, Denmark, Égypt, Estonia, Faroe Islands, Finland, France, Georgia, Germany, Greece, Greenland, Herzegovina, Hungary, Iceland, Ireland, Israel, Italy, Jordan, Kazakhstan, Kyrgyzstan, Kuwait, Latvia, Lebanon, Lesotho, Lithuania, Liechtenstein, Luxembourg, Macedonia, Malta, Monaco, Mongolia, Moldova, Montenegro, Namibia, the Netherlands, Norway, Northern Cyprus, Oman, Poland, Portugal, Qatar, Republic of South Africa, Romania, Russia, San Marino, Sardinia, Saudi Arabia, Serbia, Sicily, Slovak Republic, Slovenia, Spain, Swaziland, Sweden, Switzerland, Syria, Tajikistan, Turkmenistan, Turkey, Ukraine, United Arab Emirates, Uzbekistan, United Kingdom and Yemen.

This Agreement shall be effective as of June 1, 2005 (the "Effective Date").

ORACLE FINANCE S.À.R.L.

By: 

Name: M.A. VAN DE MOLEN

Title: MANAGER

ORACLE EMEA LIMITED

By: 

Name: M. A. VAN DE MOLEN

Title: DIRECTOR

EXECUTED IN TRIPLICATE

RECITALS

WHEREAS, FINANCE has acquired the right to license the Programs to Members of the Oracle Group;

WHEREAS, OEMEA desires to promote, market, distribute, and sublicense the Programs as specified in this Agreement;

WHEREAS, FINANCE desires to grant OEMEA a license to promote, market, distribute, and sublicense the Programs as specified in this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

1.1. ADDITIONAL SUPPORT SERVICES

"Additional Support Services" shall mean any nonstandard support services offered to Sublicensee from time to time, such as Advanced Product Support Services (formerly premium support) and Oracle On Demand Services (formerly Outsourcing Services, also known as hosting or online services) and other similar services.

1.2. CUSTOMIZING

"Customizing" shall mean customizing the Programs for Sublicensees and Subdistributors.

1.3. DOCUMENTATION

"Documentation" shall mean written material furnished by a Member of the Oracle Group in conjunction with the Programs including, without limitation, instructions and end user guides, and any appropriate translations thereof.

1.4. INTELLECTUAL PROPERTY RIGHTS

"Intellectual Property Rights" shall mean and include all patent, copyright, trade secret, trademark and other intellectual property rights, and all applications and registrations therefore, which pertain to the Programs.

1.5. LOCALIZING

"Localizing" shall mean the adjustment of certain Programs, Documentation and promotional materials to the extent necessary to meet the requirements of a local market.

1.6. MEMBER OF THE ORACLE GROUP

Unless otherwise agreed, "Member of the Oracle Group" or "Member" shall mean Oracle Corporation, any successor or any corporation, partnership, firm, association or any other entity in which Oracle Corporation, directly or indirectly, holds a one hundred percent (100%) or more ownership interest of such entity or has effective control of such entity through other means. For the purpose of this definition, "control" shall mean the power to direct the management and policies of any such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

1.7. MODIFICATION

"Modification" shall mean any adaptations, translations, ports, localizations, customizations or other modifications of the Programs (including Source Materials and Documentation), including, without limitation, all material that is derived or modified from the Programs and Documentation.

1.8. ORACLE GROUP

"Oracle Group" shall mean all Members of the Oracle Group.

1.9. ORACLE ON DEMAND SERVICES

"Oracle on Demand Services" formerly known as "Hosting Services" and shall mean data center hosting services, which provide Sublicensees with the ability to remotely access and use FINANCE program licenses.

1.10. PERSON

"Person" shall mean and include any individual, corporation, trust, estate, partnership, joint venture, company, association, league, governmental bureau or agency, or any other entity regardless of the type or nature thereof.

1.11. PORTING

"Porting" shall mean modifying the Programs for use on other computer systems.

1.12. PRICE LIST

"Price List" shall mean the Oracle Group's global price list of software offered to Sublicensees or End Users, as published from time to time and designated by the Oracle Group as such.

1.13. PRODUCT SUPPORT

"Product Support" shall mean standard support services including on-site, internet and/or telephone consultation on Program installation and technical matters.

1.14. PROGRAMS

Unless otherwise specified by FINANCE, "Program(s)" shall mean all software programs specified, or expected to be included, in the Price List, including Updates. "Program(s)" shall include (a) the object code computer software program, (b) any modified version of such program, and (c) Documentation. "Programs" shall include Modifications. Certain Programs' utilities may not be available in all operating system environments.

1.15. PROPRIETARY INFORMATION

"Proprietary Information" shall mean Programs, Source Materials, trade secrets, processes, formulae, specifications, software packages, technical know-how, methods and procedures of operation, business or marketing plans and proposals provided by one party to the other party and any other information which is identified as proprietary by the disclosing party.

1.16. QUARTER

"Quarter" shall be deemed to commence on the first day of June, September, December, and March of each year of this Agreement.

1.17. SOURCE MATERIALS

"Source Materials" shall mean certain computer software source code from which object code is compiled, together with internal system and Porting documentation for the Programs, and may include screens, flow charts, logic diagrams, specification of database and listings whether in machine readable or human readable form.

1.18. SUBDISTRIBUTOR

"Subdistributor" shall mean a third party, including value added resellers, original equipment manufacturers and other distributors, to whom OEMEA or any other Member of the Oracle Group (other than FINANCE) grants the right to market and Sublicense the Programs pursuant to Article 2.2.B below.

1.19. SUBLICENSE/SUBLICENSEE

"Sublicense" shall mean the non-transferable and non-exclusive right granted to Sublicensee by OEMEA or its Subdistributor to use the Programs for its operations. A "Sublicensee" shall mean an end user who is granted a Sublicense.

1.20. SUPPORT

"Support" shall mean Updates and Product Support included in a Sublicensee's support contract.

1.21. TERRITORY

"Territory" shall mean the territory specified on the Signature Page hereto.

1.22. THIRD PARTY ROYALTIES

"Third Party Royalties" shall mean royalties payable to third parties other than to a Member of the Oracle Group for the use of technology in connection with the Programs, Support and education services.

1.23. TRANSLATING

"Translating" shall mean translating the Programs into other language(s) subject to the obligations in Article 4.2.

1.24. UPDATES

"Updates" shall mean improved releases of the Programs which generally are made available to supported licensees. "Updates" shall not include any options or future products which are licensed separately.

1.25. U.S. GAAP

"U.S. GAAP" shall mean United States generally accepted accounting principles, as amended or revised from time to time, and as applied consistently by the Oracle Group.

ARTICLE II
LICENSES GRANTED

2.1. APPOINTMENT OF DISTRIBUTOR

Subject to the terms of this Agreement, FINANCE hereby appoints OEMEA as an authorized non-exclusive distributor for the Programs to concentrate its distribution efforts within the Territory, with the right to make copies of the Programs for purposes of distribution to the public.

2.2. SUBLICENSING LICENSE

2.2.A. End User Sublicensing

FINANCE hereby grants to OEMEA a license to market, promote, and to Sublicense the Programs to Sublicensees in the Territory, under the terms of this Agreement: (a) for use by Sublicensee for its operations on computer systems located in the Territory, and (b) upon approval via the Oracle Group's international approval policies and procedures, for use outside of the Territory. OEMEA may also grant Sublicensee the right to make copies of the Programs provided that each copy made by Sublicensee shall be deemed to be a Sublicense subject to the terms of this Agreement for which FINANCE shall be paid a Sublicense Fee. FINANCE shall ensure that Oracle Technology Company ("OTC") or its designee provides OEMEA with copies of the Program(s) and Update(s), at the then prevailing Documentation and media Sublicensee price, for the uses specified herein.

The grant of rights under this Article 2.2.A permits OEMEA to:

- (i) make and/or deliver to Sublicensee an object code copy of a Program for each Sublicense granted;
- (ii) use the Programs to provide training, Product Support and Additional Support Services to its Sublicensees and Subdistributors;
- (iii) use the Programs for demonstrations to third parties;
- (iv) use the Programs for preparing documentation, marketing, promotional and other materials to further OEMEA's marketing and distribution efforts under this Agreement;
- (v) grant trial Sublicenses so that prospective Sublicensees and Subdistributors may have the opportunity to evaluate the Programs for a reasonable period of time; and
- (vi) use and reproduce the Programs to the extent necessary for internal use, safekeeping and archival purposes.

OEMEA may not use the Programs for any purpose not specified herein without the prior written consent of FINANCE.

2.2.B. Subdistributor Sublicensing

Subject to obtaining such consent as may be required by the Oracle Group's business practices and/or legal policies or procedures, which, if required, shall not be unreasonably withheld, OEMEA shall have the right to appoint Subdistributors in the Territory. OEMEA shall cause each such Subdistributor, and each Subdistributor shall be required to cause its own Subdistributors to be bound by terms equivalent to those of the standard Oracle Group Subdistributor agreements then in effect, except as otherwise permitted under the business practices and/or legal policies and procedures of the Oracle Group.

2.2.C. Required Provisions of Sublicense

Each Sublicense granted must be in the form of a written agreement. Except as otherwise permitted under the business practices and/or legal policies and procedures of the Oracle Group, every Sublicense shall include, at a minimum, terms equivalent to those of the Oracle Group standard sublicense agreement then in effect. OEMEA agrees to enforce the terms of its Sublicense agreements and to immediately inform FINANCE of any known material breach of such terms.

2.3. SOURCE MATERIALS LICENSE

Upon OEMEA's request, FINANCE shall ensure that OTC or its designee provides OEMEA with Source Materials for the Programs. OEMEA shall have the nonexclusive right to modify the Source Materials for purposes of (a) Porting, (b) Localizing, (c) Translating the Program into other language(s), (d) Customizing the Programs for Sublicensees and Subdistributors, and (e) any other purposes agreed to by the parties in writing. The performance of such services and the compensation therefor shall be governed, as appropriate, by the Master Services Agreement among the Members of the Oracle Group.

2.4. INTELLECTUAL PROPERTY RIGHTS TO PROGRAMS

OTC's licensor shall retain all Intellectual Property Rights in the Programs. Any Modifications to the Programs and Documentation created by or for OEMEA shall be owned exclusively by OTC or its licensor, and all rights, title and interest therein shall automatically vest in OTC or its licensor upon creation. OTC or its licensor shall own title to any such Modifications pursuant to the Oracle Group's business practices and/or legal policies and procedures. In the event that any or all rights, title or interest in and to any of the Modifications or Intellectual Property Rights related thereto are deemed not to vest in OTC or its licensor, for any reason whatsoever, OEMEA hereby assigns to OTC or its licensor all right, title, and interest in and to the Intellectual Property Rights to any such Modifications, including all economic rights and moral rights of authorship. In the event that, as a matter of law, any of the foregoing rights are not assignable to OTC or its licensor, as provided in this Article 2.4, OEMEA hereby grants to OTC or its licensor an exclusive, irrevocable, worldwide, perpetual, royalty-free license to all such rights for any purpose whatsoever. OEMEA agrees to cooperate with OTC or its licensor and to execute any further assignment, transfer or conveyance requested by OTC and all documents reasonably necessary for OTC or its licensor to secure intellectual property protection in the appropriate countries for such Modifications. OEMEA shall provide OTC with copies of all Modifications made by or for OEMEA. OEMEA shall cause its licensees, employees and any third parties engaged in the preparation of Modifications to agree in writing to the terms contained herein, and to assign, waive and agree not to assert any moral rights of authorship with respect to any such Modifications.

2.5. [RESERVED]

2.6. OEMEA COMMITMENT

In consideration for the rights granted herein, OEMEA agrees to use its best efforts to market the Programs in the Territory. In consideration for the rights granted herein, OEMEA further agrees, at its own cost and expense, as and when appropriate and concentrating its efforts within the Territory, as follows:

- (i) to use its best efforts actively to promote the marketing and distribution of all the Programs;
- (ii) to maintain a sales organization to solicit and actively promote sublicensing of the Programs;

- (iii) to promote the distribution of the Programs within the Territory by preparing promotional materials, by featuring the Program in catalogs and general product brochures that are prepared by OEMEA, by advertising the Programs in trade publications and by participating in trade shows and exhibits;
- (iv) to consult with FINANCE, or its designee, regarding any advertising or trade practice which might adversely affect the good name, trademarks, goodwill or reputation of the Oracle Group or the Programs;
- (v) not to represent, or otherwise attempt to sublicense or otherwise distribute any products that compete with the Programs on any computer system platform;
- (vi) to service multiple jurisdiction Sublicensees - global Sublicensees or corporate accounts;
- (vii) to provide education and training on Programs to Sublicensees and Subdistributors;
- (viii) to provide Support to its Sublicensees and Subdistributors, and to train and maintain a sufficient number of competent technical personnel to provide such Support;
- (ix) to provide Additional Support Services on Programs to Sublicensees;
- (x) to provide Updates of the Programs to Sublicensees and Subdistributors;
- (xi) to provide consulting on Programs and systems integration to Sublicensees;
- (xii) to provide copies of Program media and Documentation to Sublicensees and Subdistributors;
- (xiii) subject to Article IV and the other provisions of this Agreement, to reproduce, Translate, Localize and Customize, as needed by Sublicensees and Subdistributors, essential parts of the Documentation if not already available from FINANCE or its designee;
- (xiv) to obtain and maintain all necessary government licenses, permits and approvals when necessary or advisable for implementation of this Agreement, and to comply with all applicable laws and regulations, including, without limitation, any requirements for registration or recording of this Agreement;
- (xv) to maintain and submit to FINANCE, or its designee, all financial records required by FINANCE;
- (xvi) to represent FINANCE in a professional manner that brings credit to FINANCE and enhances the reputation of the Oracle Group and its products and not to disparage the Oracle Group or its Programs; and
- (xvii) to consult with FINANCE, or its designee, in planning and coordinating the promotion of Programs.

2.7. APPOINTMENT OF ADDITIONAL DISTRIBUTOR

To the extent permitted under this Agreement, FINANCE may grant to any other Member of the Oracle Group the right to sublicense or distribute Programs in the Territory upon notifying OEMEA (through normal business practices between the parties) of such action.

2.8. SUBDISTRIBUTOR AND MULTIPLE JURISDICTION TRANSACTIONS. The parties hereto acknowledge that OTC retains the right to negotiate and enter into Subdistributor agreements that permit limited distribution of the Programs in the Territory, and multinational Sublicense agreements that permit installations or use of the Programs by Sublicensees in the Territory. OEMEA shall resupply Program media and Documentation, as necessary, to a distributor or multinational Sublicensees of another Member of the Oracle Group located in the Territory.

- (i) Territory Only Agreements. "Territory Only Agreements" are defined as those applicable to Programs that relate solely to the distribution and servicing of Programs in the Territory. Subject to Article 2.2.B and Article VII of this Agreement, FINANCE grants OEMEA the nonexclusive right to negotiate and enter into Territory Only Agreements with Sublicensees and Subdistributors.
- (ii) Other Agreements. The parties acknowledge that there may be circumstances in which it will be appropriate for OEMEA to negotiate and manage certain agreements involving Programs (such as where the majority of revenues of FINANCE under such agreements are expected to be derived from the installation of Programs in the Territory), in which case the parties hereto shall consult with respect to the negotiation and management of such agreements and such agreements shall be negotiated and managed by OEMEA.

2.8.A. Multiple Jurisdiction Revenue Rights – License

2.8.A.(1). Grant of Authority

The parties acknowledge that, under certain limited circumstances, OEMEA, or any other Member of the Oracle Group may enter into negotiations with a Sublicensee who seeks to acquire a license to install or use Programs in various territories of the world. The parties agree that it is mutually beneficial to enter into such global arrangements. Accordingly, FINANCE hereby grants to OEMEA the following limited authority subject to the restrictions contained in this paragraph. FINANCE authorizes OEMEA to agree on behalf of, and bind, other Members of the Oracle Group (excluding FINANCE) with respect to installation or use of Programs in their respective territories. Each Member of the Oracle Group is further authorized to obtain such consent from other Members of the Oracle Group so that all Members are able to participate in such agreements on equal terms. This power may be exercised solely under the following conditions: (i) all material terms of the user or Subdistributor agreement are equal for all Members of the Oracle Group; (ii) this authority is exercisable only with respect to agreements to provide for installation or use of Programs in the territory of more than one Member of the Oracle Group; and (iii) all Members of the Oracle Group participating in such agreement shall derive revenue only from their respective territories with respect to such agreement. Subject to these conditions, the parties authorize each other to enter into such agreements either in the names of all participating Members, or in the name of a single contracting Member. In the case of any contract or any agreement entered into in the name of a single contracting Member, the parties expressly acknowledge and agree that such Member is acting as an undisclosed agent for the

other Members and that those other Members are thereby bound directly under the terms of such agreement to the Sublicensee. The parties further agree that any agreement which is entered into pursuant to the international approval policies and procedures of the Oracle Group concerning global deals shall be governed by the terms of this Article.

2.8.A.(2) Commercial Arrangements and Rights to Revenue

The following paragraphs apply to Programs distributed by a Member of the Oracle Group (excluding FINANCE) ("Principal", for purposes of this Article II) pursuant to an agreement entered into by another Member of the Oracle Group (excluding FINANCE) as agent for Principal ("Contracting Member", for purposes of this Article II) pursuant to the above grant of authority.

2.8.A.(2.)(a) Title Passage and Use Rights. Legal title to the tangible Documentation, recording media, and to all other tangible materials that are part of the Programs shall remain with Principal until Contracting Member causes such title to be transferred directly from Principal to the user or Subdistributor. Contracting Member shall at no time acquire such title. Principal hereby consents to the vesting in users and Subdistributors the rights to use the Programs as the Contracting Member shall specifically agree. Principal and Contracting Member acknowledge that Principal grants such rights directly to users and Subdistributors, and that Contracting Member acts solely as an agent to make available such limited rights.

2.8.A.(2.)(b) Ownership of Receivables and Collection Authority. To the extent permitted by law, all accounts receivable resulting from the distribution of the Programs by the Contracting Member on behalf of the Principal will be owned by Principal ab initio. In so far as any accounts receivable or other claims are not owned by Principal ab initio, Contracting Member hereby assigns, in advance, to Principal any and all such accounts receivable or other claims, and Principal hereby accepts such assignment. In so far as neither of the prior sentences applies, Contracting Member acknowledges and agrees that any and all such accounts receivable or other claims shall be held by Contracting Member for the sole benefit of Principal. In any case, Contracting Member shall be authorized and empowered to collect all fees and payments from users and Subdistributors in Contracting Member's name, but for Principal's account. The parties acknowledge and agree that all payments received from users and Subdistributors with respect to Programs distributed under this Article are held for the account of Principal.

2.8.A.(2.)(c) Transfer to Principal of Payments Received. All payments received by Contracting Member on behalf of Principal for Programs distributed under this Article II shall be transferred to Principal, either directly or through a paying agent or such paying agent's designee, in due course. Contracting Member shall not make any deduction therefrom or retain any amount or otherwise interfere with the transfer to Principal of the payments received. This Article II shall specifically, but not exclusively, apply to Subdistributor agreements and to multinational end user sublicenses entered into by OEMEA, and other Members of the Oracle Group. OEMEA shall pay FINANCE the Sublicense Fees and Support Fees due under Article V hereof on all revenue earned by it under this Article II. OEMEA and FINANCE acknowledge that Oracle Corporation from time to time acts as a paying agent hereunder.

2.8.B. Multiple Jurisdiction Revenue Rights – Support

If under an agreement described in this Article II, OEMEA is required to provide Support on the Programs installed or used in the Territory, all participating Members of the Oracle Group (excluding FINANCE) shall earn the appropriate percentage of revenue derived from this Support as set out in Part III of Schedule 1. The parties acknowledge that the Support revenue so earned by Members of the Oracle Group is earned directly by each such Member from the Sublicensee. If under an agreement pursuant to Articles 2.2.A, 2.2.B and 2.8.A of this Agreement, another Member of the Oracle Group (other than FINANCE) is required to provide Support, all participating Members of the Oracle Group shall earn the appropriate percentage of the revenue derived from this Support as set out in Part III of Schedule 1. The parties acknowledge that the Support revenue so earned by Members of the Oracle Group is earned directly by each such Member from the Sublicensee.

2.9. ADJUSTMENT OF REVENUES

To the extent that revenue is earned by Members of the Oracle Group under the provisions of this Agreement based on estimates as to current or future installations or users of the Programs, the revenue may, as agreed by the parties, be adjusted periodically as actual installation or user information becomes available.

ARTICLE III

SUPPORT, EDUCATION, CONSULTING AND HOSTING

3.1. OEMEA SUPPORT RESPONSIBILITIES

OEMEA shall be responsible for all direct Support to OEMEA's Sublicensees and Subdistributors in the Territory. Such Support responsibilities will include Product Support, Additional Support Services, and distribution of Updates. OEMEA shall be responsible for performing the Product Support or Additional Support Services sold by OEMEA hereunder either by performing such services itself or by contracting with Members or third parties for performance of such services. The performance of such services and the compensation shall be governed, as appropriate, by the Master Services Agreement among the Members of the Oracle Group.

3.2. FINANCE SUPPORT RESPONSIBILITIES

FINANCE shall ensure that OTC or its designee provides OEMEA with the following Support services:

- (i) Product Support - Telephone consultation, internet support, assistance, and advice to OEMEA with respect to technical questions which are raised by OEMEA's Subdistributors and Sublicensees and by licensees of any Member of the Oracle Group relevant to such licensees' use of the Programs in the Territory; and
- (ii) Correction to errors reported in the current releases of the Programs as such corrections become available; and
- (iii) Updates as they become available.

The performance of such services and the compensation shall be governed, as appropriate, by the Master Services Agreement among the Members of the Oracle Group.

3.3. OEMEA EDUCATION RESPONSIBILITIES

OEMEA shall be responsible for all education to OEMEA's Sublicensees and Subdistributors in the Territory, as appropriate. Such education responsibilities will include, but are not limited to, training in the use of Programs and services whether delivered at a Member of the Oracle Group facility or the Sublicensee site. OEMEA shall be responsible for performing the education services sold by OEMEA hereunder either by performing such services itself or by contracting with Members or third parties for performance of such services. The performance of such services and the compensation shall be governed, as appropriate, by the Master Services Agreement among the Members of the Oracle Group.

3.4. FINANCE EDUCATION RESPONSIBILITIES

FINANCE shall arrange to provide to OEMEA the education core curriculum to be used by OEMEA in delivering training to Sublicensees.

3.5. MULTIPLE JURISDICTION REVENUE RIGHTS - EDUCATION AGREEMENTS

The parties acknowledge that, if and only if, OEMEA agrees to be bound (pursuant to the international approval policies and procedures), any Member of the Oracle Group may agree on behalf of, and bind, OEMEA with regard to education in the Territory. If, under such an agreement between such Member of the Oracle Group and a third party, OEMEA is to provide education in the Territory, the participating Members of the Oracle Group shall earn the appropriate percentage of revenue derived from these sublicenses as set out in Part V of Schedule 1. The parties acknowledge that the education revenue so earned by Members of the Oracle Group is earned directly by each such Member from the Sublicensee. The parties acknowledge that, if and only if, another Member of the Oracle Group (excluding FINANCE) agrees to be bound pursuant to the international approval policies and procedures of the Oracle Group, OEMEA may agree on behalf of, and bind, such other Member of the Oracle Group (excluding FINANCE), with regard to education outside the Territory. If under such an agreement between OEMEA and a third party, education is to be performed outside the Territory, the participating Members of the Oracle Group shall earn the appropriate percentage of revenue derived from these sublicenses as set out in Part V of Schedule 1. The parties acknowledge that the education revenue so earned by Members of the Oracle Group is earned directly by each such Member from the Sublicensee.

3.6. CONSULTING SERVICES

OEMEA shall offer to provide consulting services to OEMEA's Sublicensees and Subdistributors in the Territory, as appropriate. OEMEA shall be responsible for performing the consulting services sold by OEMEA hereunder either by performing such services itself or by contracting with Members or third parties for performance of such services. The performance of such services and the compensation shall be governed, as appropriate, by the Master Services Agreement among the Members of the Oracle Group.

3.7. ORACLE ON DEMAND

OEMEA shall offer to provide Oracle On Demand Services (formerly Hosting Services) to Sublicensees and Subdistributors in the Territory, as appropriate. OEMEA shall be responsible for performing the Oracle On Demand Services sold by OEMEA hereunder either by performing such services itself or by contracting with Members or third parties for performance of such services. The performance of such services and the compensation shall be governed, as appropriate, by the Master Services Agreement among the Members of the Oracle Group.

ARTICLE IV
DOCUMENTATION AND REPRODUCTION, TRANSLATION, CUSTOMIZATION AND
LOCALIZATION

4.1. DOCUMENTATION

FINANCE's designee shall make available to or provide to OEMEA a complete set of Documentation (including all available installation guides) for the Programs.

4.2. RIGHT TO REPRODUCE, TRANSLATE, CUSTOMIZE, PORT AND LOCALIZE

FINANCE hereby grants to OEMEA the right to reproduce, Translate, Customize, Port and Localize the Programs, Documentation and promotional materials as required to meet local market needs. On any Translation, Customization, Localization or duplication of the Programs, Documentation or promotional materials, OEMEA agrees to duplicate any copyright notices, trademarks, and other restricted rights that are in the originals thereof, in accordance with Articles 9.2 and 9.3. Any Translation of all or any portion of the Programs, Documentation or promotional material made under this Article 4.2 constitute Modifications as provided in Article 2.4, and the provisions of that Article shall apply thereto.

ARTICLE V
FEES AND PAYMENTS

5.1. SUBLICENSE FEES

5.1.A. General Sublicense Fees

In consideration for each Sublicense of a Program (including any Modifications) granted by OEMEA or an OEMEA Subdistributor hereunder, OEMEA shall pay FINANCE a fee equal to that set out in Part I of Schedule 1.

5.1.B. Trial Sublicense Fees

For Trial Sublicenses for which OEMEA has charged a fee to a Sublicensee or Subdistributor, the Trial Sublicense Fee due to FINANCE shall be as set out in Part 1 of Schedule 1. If the Sublicensee who is granted a Trial Sublicense obtains a perpetual Sublicense, OEMEA may apply one hundred percent (100%) of the Trial Sublicense Fee toward the Sublicense Fee due to FINANCE for such perpetual Sublicense.

5.2. ADJUSTMENT TO SUBLICENSE FEES

The Sublicense Fees set forth in Parts I and IV of Schedule 1, plus media, documentation and shipping charges, may be adjusted, as may be required to conform with the Oracle Group's standard pricing terms, which are subject to change from time to time.

5.3. SUBLICENSE FEES FOR PRODUCTS OWNED BY THIRD PARTIES

For each Sublicense granted by OEMEA for a product owned by a third party and for which FINANCE or another Member of the Oracle Group owes a fee to such third party, OEMEA shall pay to FINANCE or the Member of the Oracle Group, and/or directly to a third party if contractually required, the greater of the license fee due to the third party or the fee set out in Part I of Schedule 1.

5.4. THIRD PARTY EDUCATION ROYALTY OBLIGATIONS

OEMEA shall charge to FINANCE Third Party Royalties arising from the development of education core curriculum by such third parties.

5.5. EDUCATION FEES

In consideration for the use of education core curriculum training materials supplied by FINANCE's designee, OEMEA shall pay a fee to FINANCE equal to that set out in Part IV of Schedule 1.

5.6. DOCUMENTATION, PROGRAM MEDIA, AND SHIPPING FEES

OEMEA shall pay a fee to the relevant Member of the Oracle Group for the Program media and Documentation provided to OEMEA and shipping charges incurred, as determined by the relevant Member of the Oracle Group from time to time.

5.7. RESPONSIBILITY FOR EXPENSES

OEMEA shall be responsible for all expenses incurred by OEMEA in the course of exercising any rights or responsibilities accepted by OEMEA under this Agreement, unless otherwise specified herein.

5.8. THIRD PARTY SALES SERVICES FEES

If a Member of the Oracle Group has entered into an agreement with a third party under which the third party provides sales assistance to OEMEA for which a fee is due to the third party ("Sales Service Fee"), then OEMEA will pay the Member of the Oracle Group the sales service fee, as stipulated in the agreement with such third party. The Sales Service Fee referred to in this Article V will be paid to FINANCE in addition to the amounts otherwise due to FINANCE as stated in Schedule 1.

5.9. GENERAL PAYMENT TERMS

5.9.A. Payment Terms

OEMEA shall pay FINANCE or such other Member of the Oracle Group, as appropriate, either directly or through a paying agent or such paying agent's designee, all such fees and other revenue due no later than ninety (90) calendar days after the Quarter in which such payment was accrued. All payments which are not received when due and payable will be considered overdue and remain payable together with interest for late payment on a day to day basis at an agreed interest rate, or if none is agreed, at an annual rate of 1.5% above LIBOR.

OEMEA and FINANCE acknowledge that Oracle Corporation from time to time acts as a paying agent hereunder.

5.9.B. Currency, Free and Clear Payments

All payments made to FINANCE shall be in the currency in which OEMEA reports to FINANCE, or in U.S. Dollars if so indicated by FINANCE. All payments shall be made without deductions based on any currency control restriction, import duties, or sales, use, value added, or other taxes or withholdings, except that OEMEA may withhold from such payments any taxes required by the governments in the Territory to be withheld, provided that OEMEA pays such amounts to the appropriate government authority on behalf of FINANCE and supplies FINANCE with evidence of such tax payment within thirty (30) days of the payment, in order to permit FINANCE to claim a foreign tax credit against its United States income taxes, and provided no substantial changes in the current relevant tax treaties are enacted.

5.10. ADJUSTMENT

Both parties agree to pursue all appropriate legal remedies in order to avoid double taxation, however, in the event of FINANCE receiving a final transfer pricing adjustment from the United

States Internal Revenue Service, OEMEA shall make a payment, or FINANCE shall make a rebate, in the amount of the adjustment relating to the Territory. In the event of OEMEA receiving a final transfer pricing adjustment from the local tax authority FINANCE shall make a rebate, or OEMEA shall make an additional payment, in the amount of the adjustment relating to the Territory. Periodically, the parties agree to make adjustments to payments prospectively or retrospectively as necessary to achieve an arm's length result. Any adjusting payments, refunds or credits may be made in a subsequent year, if necessary to reflect any such adjustment required to achieve an arm's length result.

5.11. PAYMENTS POST TERMINATION

Third party contracts entered into under the authority of this Agreement may result in revenue to the Oracle Group after the termination, under Article VII, of this Agreement. All payments, fees and allocations shall be made under the terms of this Agreement on all such revenues, unless the parties agree otherwise.

5.12. MARKETING ASSISTANCE FEE

In the event of OEMEA suffering economic hardship due to external events, such as war or economic recession, FINANCE may, upon its sole determination, pay OEMEA a marketing assistance fee to protect the Oracle Group's business reputation in the Territory.

ARTICLE VI
REPORTING

6.1. OEMEA SUBLICENSE REPORTS

Within thirty (30) days of the last day of each month, if required by FINANCE, OEMEA shall provide FINANCE, or its designee, with a report of all revenues recognized in that period by OEMEA in accordance with U.S. GAAP.

OEMEA shall require under the terms of its Subdistributor Agreements that each Subdistributor provide reports to OEMEA at the same time and containing the same information as OEMEA is required to provide FINANCE, or its designee, hereunder; and, OEMEA will provide FINANCE, or its designee, in turn with such information within thirty (30) days after receipt from OEMEA's Subdistributors.

6.2. RECORDS INSPECTION

At all times during the term of this Agreement, OEMEA shall maintain full, complete and accurate books of account and records with regard to its activities under this Agreement. Upon reasonable notice, OEMEA shall consent to FINANCE, or its designee, reviewing, during normal business hours, OEMEA's books and records in order that FINANCE, at its expense, may verify compliance by OEMEA with its obligations under this Agreement; provided, however, that OEMEA shall reimburse FINANCE, or its designee, for the full amount of inspection costs if any inspection under this Article VI reveals any breach by OEMEA of this Agreement.

6.3. MAINTENANCE OF RECORDS; ADDITIONAL INFORMATION

All records and accounts relating to the distribution of the Programs and Support contracts shall be maintained by OEMEA for at least five (5) years after termination or expiration of this Agreement. From time to time during the term of this Agreement, FINANCE may request OEMEA to maintain and to provide FINANCE, or its designee, with (a) summaries of the Programs distributed, listed by Program, Sublicensee, Subdistributor (if any), and computer system, (b) lists of all Sublicensees and Subdistributors, including names and addresses, (c)

copies of all agreements with Sublicensees and Subdistributors, and (d) financial records relating to OEMEA's activities hereunder. OEMEA shall provide such information to FINANCE as and when requested. OEMEA shall also immediately report to FINANCE all claimed or suspected Program defects. OEMEA shall ensure that its Subdistributors maintain all such information and copies of all Sublicenses granted hereunder which shall be provided to OEMEA upon its request. Upon reasonable request from FINANCE, OEMEA agrees to make such information and agreements available to FINANCE for inspection.

ARTICLE VII TERM AND TERMINATION

7.1. TERM

This Agreement shall become effective on the Effective Date and unless this Agreement is terminated earlier, as provided in Article 7.2 hereof, shall continue until either party terminates it, with or without cause, upon thirty (30) days prior written notice of such termination.

7.2. TERMINATION OF AGREEMENT

7.2.A. General Breach

Either party may terminate this Agreement prior to the expiration of the term in the event that the other party materially defaults in performing any obligation under this Agreement and such default continues unremedied for a period of thirty (30) days following written notice of default or, if such default is not capable of remedy within thirty (30) days, the other party makes reasonable progress towards a remedy of the breach within such thirty (30) day period, except that there shall be no such cure for the breaches described in Articles 7.2.B, 7.2.D, 7.2.E, 7.2.F and 7.2.G.

7.2.B. Breach of Proprietary Protection or Export Administration Provisions

Should OEMEA intentionally or recklessly commit any material breach of the proprietary rights protection or export control provisions of this Agreement, FINANCE may immediately terminate this Agreement in its entirety.

7.2.C. Force Majeure

No party hereto shall be liable for failure to perform, in whole or in material part, its obligations under this Agreement if such failure is caused by any event or condition not reasonably within the control of the affected party, including, without limitation, by fire, flood, typhoon, earthquake, explosion, unavoidable accidents, war (declared or undeclared), acts of terrorism, sabotage, embargoes, blockage, acts of governmental authorities, riots, insurrections, or any other cause beyond the control of the parties; provided, only, that the affected party promptly notifies the other party of the occurrence of the event of force majeure and takes all reasonable steps necessary to resume performance of its obligations so interfered with; and provided further that the other party may terminate this Agreement if such condition and the failure of performance continues for a period of one hundred eighty (180) days and if such condition does not preclude another party from being substituted to perform the material obligations of the affected party.

7.2.D. Bankruptcy

OEMEA acknowledges that FINANCE has entrusted it with possession of valuable confidential, proprietary information, and that FINANCE is specifically relying upon OEMEA's financial stability, honesty and trustworthiness. Therefore, FINANCE shall have the right to terminate this Agreement immediately upon the occurrence of any of the following events:

- (i) OEMEA ceases to do business, becomes or is adjudged insolvent or bankrupt; or
- (ii) a clearing house commences procedures necessary to suspend payment of OEMEA's checks, and payment is thereafter suspended; or
- (iii) OEMEA is the subject of any proceeding relating to its receivership, liquidation or insolvency which is not dismissed within thirty (30) days; or
- (iv) OEMEA makes a material assignment for the benefit of its creditors; or
- (v) an order or notice of provisional disposition, preservative attachment or attachment is dispatched in respect of OEMEA's material assets.

7.2.E. Change of Territory

FINANCE may terminate OEMEA's rights under this Agreement, in the event any government entity:

- (i) enacts currency control laws or regulations which make it impossible to pay the fees due to FINANCE under this Agreement;
- (ii) nationalizes OEMEA; or
- (iii) commits acts which are materially injurious to FINANCE's interests in the Programs and/or in this Agreement.

7.2.F. Unauthorized Transfer

FINANCE may terminate this Agreement immediately upon OEMEA's attempt to transfer or assign this Agreement or the licenses granted hereunder without the prior written consent of FINANCE.

7.2.G. Misrepresentation

FINANCE may terminate this Agreement immediately if OEMEA knowingly misrepresents the Programs or takes other actions which tend to bring FINANCE into disrepute.

7.2.H. Subdistributors

OEMEA shall terminate its agreement with any Subdistributor upon thirty (30) days' prior notice by FINANCE to OEMEA if any such Subdistributor fails to perform any material obligation required hereunder, and does not correct all breaches within such notice period; provided, however, that if any Subdistributor intentionally or recklessly commits any material breach of a proprietary rights protection or export control obligation required hereunder, OEMEA shall terminate its agreement with such Subdistributor immediately. All agreements with any Subdistributors shall provide for such rights. If OEMEA fails to comply with this provision, FINANCE may immediately terminate this Agreement and, as contemplated by Article 2.2.C, any Subdistributor agreement.

7.3. RIGHTS UPON TERMINATION

7.3.A. Cessation of Marketing

Should this Agreement be terminated, all rights granted in this Agreement respecting marketing, sublicensing, and use of the Programs by OEMEA shall cease.

7.3.B. Return of Materials

Upon termination of this Agreement, OEMEA shall return all information, including computer tapes or other media, Documentation, and related information relating to the Programs to FINANCE or its designee.

7.4. ASSIGNMENT OF SUPPORT AND SUBDISTRIBUTOR CONTRACTS

Upon termination of this Agreement, OEMEA shall immediately assign to another Member of the Oracle Group as designated by FINANCE all Support contracts and any other agreements with Sublicensees and Subdistributors continuing beyond the date of termination or expiration hereof. OEMEA shall cooperate with FINANCE and take all steps necessary and appropriate under applicable law to effect such assignment.

7.5. WAIVER OF TERMINATION COMPENSATION

To the extent permitted by law, neither party shall be liable for, and both parties hereby waive all rights to compensation and all claims of any kind arising from the termination of this Agreement, whether on account of the loss of present or prospective profits, anticipated orders, or expenditures, investments, or commitments made in connection with this Agreement, goodwill created, or on account of any other cause whatsoever.

ARTICLE VIII
WARRANTIES

8.1. INFRINGEMENT INDEMNITY

FINANCE's designee will defend and indemnify OEMEA against a claim that the Programs infringe a copyright or patent or other Intellectual Property Right, provided that: (a) OEMEA notifies FINANCE in writing within thirty (30) days of the claim; (b) FINANCE's designee has sole control of the defense and all related settlement negotiations; and (c) OEMEA provides FINANCE's designee with the assistance, information and authority necessary to perform its obligations under this Article VIII. FINANCE will reimburse OEMEA's reasonable out-of-pocket expenses incurred in providing such assistance. FINANCE shall have no liability for any claim of infringement based on: (i) use of a superseded or altered release of Programs if the infringement would have been avoided by the use of a current unaltered release of the Programs which FINANCE's designee provides to OEMEA; or (ii) the combination, operation, or use of any Programs furnished under this Agreement with programs or data not furnished by FINANCE's designee if such infringement would have been avoided by the use of the Programs without such programs or data.

If the Programs are held or are believed by FINANCE to infringe, FINANCE shall have the option, at its expense, to (a) have the Programs modified to be noninfringing; or (b) obtain for OEMEA a license to continue using the Programs. If it is not commercially reasonable to perform either of the above options, then FINANCE may terminate the license for the infringing Programs and refund the license fees paid for those Programs.

THIS ARTICLE 8.1 STATES THE ENTIRE LIABILITY OF FINANCE AND ALL OTHER MEMBERS OF THE ORACLE GROUP AND OEMEA'S EXCLUSIVE REMEDY FOR INFRINGEMENT.

8.2. WARRANTY

FINANCE WARRANTS THAT THE PROGRAMS WILL SUBSTANTIALLY OPERATE AS DESCRIBED IN THE APPLICABLE PROGRAM DOCUMENTATION FOR ONE (1) YEAR AFTER FINANCE DELIVERS THEM. FINANCE ALSO WARRANTS THAT TECHNICAL SUPPORT AND SERVICES ORDERED WILL BE PROVIDED IN A MANNER CONSISTENT WITH INDUSTRY STANDARDS, AND THIS WARRANTY IS VALID FOR A PERIOD OF NINETY (90) DAYS FROM PERFORMANCE OF THE SERVICE.

FINANCE DOES NOT GUARANTEE THAT THE PROGRAMS WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT FINANCE WILL CORRECT ALL PROGRAM ERRORS. TO THE EXTENT PERMITTED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE. IF FINANCE CANNOT SUBSTANTIALLY CORRECT A BREACH OF FINANCE'S WARRANTIES IN A COMMERCIALY REASONABLE MANNER, FINANCE MAY END THE PROGRAM LICENSE, TECHNICAL SUPPORT OR OTHER SERVICES AND RECOVER THE LICENSE FEES, TECHNICAL SUPPORT FEES OR OTHER SERVICES FEES PAID TO FINANCE UNDER THIS AGREEMENT FOR THE RELEVANT PROGRAM, TECHNICAL SUPPORT OR SERVICE. THIS IS YOUR EXCLUSIVE REMEDY.

8.3. EXCLUSION

THE WARRANTIES STATED HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8.4. LIMITATION OF LIABILITY

FINANCE SHALL IN NO EVENT HAVE ANY LIABILITY TO OEMEA OR ANY SUBLICENSEE OR SUBDISTRIBUTOR OF ANY MEMBER OF THE ORACLE GROUP FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFIT, REVENUE, DATA, OR USE EVEN IF FINANCE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FINANCE'S LIABILITY FOR DAMAGES HEREUNDER FOR ANY CAUSE WHATSOEVER SHALL IN NO EVENT EXCEED THE AMOUNTS RECEIVED BY FINANCE FROM OEMEA, EXCLUSIVE OF UPDATE FEES, DURING THE ONE (1) YEAR PERIOD PRIOR TO AND ENDING ON THE DATE THAT THE CLAIM FOR SUCH DAMAGES AROSE. THE PROVISIONS OF THIS ARTICLE VIII ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN FINANCE AND OEMEA. THE FEES PROVIDED FOR IN THIS AGREEMENT REFLECT THIS ALLOCATION OF RISKS AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.

ARTICLE IX

NONDISCLOSURE OF PROPRIETARY INFORMATION; COPYRIGHTS, TRADEMARKS, AND INTELLECTUAL PROPERTY PROTECTION

9.1. NONDISCLOSURE

It is expected that the parties will disclose to each other certain information which is considered Proprietary Information. All Proprietary Information remains solely the property of the disclosing party, and its confidentiality shall be maintained and protected by the other party. Except to the extent required by this Agreement, FINANCE and OEMEA agree not to disclose the other party's

Proprietary Information or to disclose it to any of their employees not having a need to know or to any third party for the purposes of this Agreement. The parties further agree not to use each other's Proprietary Information for any purpose other than the implementation of this Agreement. Each party shall hold, and subsequent to the term of this Agreement shall continue to hold, the Proprietary Information in strict confidence. Each party shall immediately notify the other party and shall take all reasonable protective measures to protect the other party from harm resulting from any breach of confidentiality of its Proprietary Information, whether or not such breach was inadvertent. Such protective measures shall include security procedures reasonably designed to prevent unauthorized Persons from inadvertently having access to the Proprietary Information. Each party shall immediately notify the other party of any breach of confidentiality or any other breach of this Agreement, whether or not such breach was inadvertent. *Results of benchmark tests run by OEMEA may not be disclosed unless FINANCE consents to such disclosure in writing. This nondisclosure provision shall survive the expiration or termination of this Agreement.*

9.2. COPYRIGHTS

OEMEA acknowledges that the Programs and related Documentation licensed by FINANCE to OEMEA hereunder are protected by copyright. All copies of the Programs and related Documentation provided to OEMEA hereunder shall bear a copyright notice. OEMEA shall duplicate such notices and OEMEA shall require that all such notices be duplicated on all copies of the Programs and related Documentation made hereunder. Such notices shall be placed on the Documentation, on the Programs (including Source Materials) on-screen at sign-on, on packaging, on labels, on any microcode or printed versions of the Source Materials, and/or on diskette or tape jackets, as appropriate. OEMEA agrees that its obligation to include such notices is both a covenant of this Agreement and a condition of FINANCE's granting of any licenses to OEMEA.

9.3. TRADEMARKS

9.3.A. Right to Use

OEMEA acknowledges that "ORACLE," and any other symbols, trademarks, and service marks used by the Oracle Group on or in association with its business operations, products or services ("Trademarks") belong to OTC's licensor and that OEMEA will have no rights in such marks except as expressly set forth herein and as specified in writing from time to time. FINANCE hereby grants to OEMEA a nontransferable, nonexclusive license to: (i) use the relevant Trademarks on and in association with the Programs, products and services; and (ii) use the relevant Trademarks in the marketing and promotion of the Programs, products and services. OEMEA shall comply with the directions and trademark usage guidelines prescribed by OTC's licensor from time to time with respect to its use of the Trademarks. OEMEA also agrees that during the term of this Agreement or at any time thereafter it shall not register or use any of the Trademarks or trade names or any word, symbol or design confusingly similar thereto, without the specific authorization of OTC or its licensor. All goodwill based upon OEMEA's use of the Trademarks shall inure to the benefit of OTC's licensor.

9.3.B. Quality Control

OEMEA agrees that the Programs and OEMEA's services, as promoted and marketed by OEMEA, shall meet the standards of quality established by OTC's licensor, as communicated by OTC to OEMEA from time to time. From time to time, OTC may inspect samples of the Programs and services, as promoted and marketed by OEMEA, to ensure the maintenance of such standards of quality. OEMEA shall comply with the directions, trademark usage guidelines and quality standards prescribed by OTC's licensor, as communicated by OTC to OEMEA from time

to time with respect to the Programs and services. OEMEA shall, and shall through OEMEA's agreements cause its Subdistributors to, give OTC or its licensor and their representatives access to the facilities of OEMEA and its Subdistributors at any time during normal hours for the purpose of inspecting any item to which the Trademarks are affixed to ensure that the quality thereof meets the standards specified by OTC's licensor.

9.4. ASSISTANCE WITH PROTECTION OF FINANCE INTELLECTUAL PROPERTY RIGHTS

OEMEA shall promptly notify OTC (a) of any claims or objections that its use of the Intellectual Property Rights or the Proprietary Information in connection with the marketing, distribution, Support or service of the Programs may or will infringe the copyrights, patents, trademarks or other proprietary rights of any other Person, and (b) of any and all infringements, imitations, illegal use, or misuse, by any Person, of the Intellectual Property Rights or the Proprietary Information which come to its attention; provided, however, that OEMEA shall not take any legal action relating to the protection of any Intellectual Property Rights or Proprietary Information without the prior written approval of OTC; and provided further that OEMEA shall render OTC or its licensor, at OTC's expense, all reasonable assistance in connection with any matter pertaining to the protection of the Intellectual Property Rights or Proprietary Information, whether in the courts, administrative agencies, or otherwise.

ARTICLE X
GENERAL TERMS AND CONDITIONS

10.1. RELATIONSHIP BETWEEN PARTIES

OEMEA will in all matters relating to this Agreement act as an independent contractor. Except as expressly provided for herein, this Agreement does not establish a partnership, general agency, employer-employee or franchisor-franchisee relationship between the parties.

10.2. ASSIGNMENT

OEMEA may not assign or transfer the rights or obligations created through this Agreement without the consent of FINANCE. Either party may fulfill its obligations by contracting with a related or unrelated party for such performance.

10.3. GOVERNING LAW/JURISDICTION

This Agreement shall be governed by the laws of the State of California, U.S.A., without reference to the choice-of-law principles thereof. This Agreement is not governed by the United Nations Convention on International Sale of Goods, the application of which is expressly excluded. Any legal action or proceeding relating to this Agreement shall be instituted in a state or federal court in San Francisco or San Mateo County, California.

10.4. SEVERABILITY

Any term or provision of this Agreement held to be illegal or unenforceable shall be interpreted so as to be construed as valid, but in any event the validity or enforceability of the remainder hereof shall not be affected, unless the business purpose of this Agreement is substantially frustrated thereby.

10.5. COMPLIANCE WITH UNITED STATES LAW

OEMEA acknowledges that the Programs are subject to export controls imposed on FINANCE and OEMEA by the United States Export Administration Act, United States Departments of Commerce, Treasury, and State regulations and directives, and other United States law ("Export

laws"). OEMEA agrees to comply fully with all Export laws to assure that neither the Programs nor any direct product thereof are (a) exported, directly or indirectly, in violation of Export laws; or (b) are intended to be used for any purposes prohibited by the Export laws, including, without limitation, nuclear, chemical, or biological weapons proliferation.

OEMEA shall at all times strictly comply with all applicable laws, rules, regulations and governmental orders, now or hereafter in effect, relating to its performance of this Agreement. OEMEA further agrees to make, obtain and maintain in force at all times during the term of this Agreement, all filings, registrations, reports, licenses, permits and authorizations (collectively, "Authorizations") required under applicable law, regulation or order in order for OEMEA to perform its obligations under this Agreement. FINANCE shall provide OEMEA with such assistance as OEMEA may reasonably request in making or obtaining any such Authorizations.

OEMEA further acknowledges that the U.S. Foreign Corrupt Practices Act prohibits OEMEA from making any payment of money or anything of value directly or indirectly to any government official, political party or candidate for political office for the purpose of obtaining or retaining business. OEMEA hereby represents and warrants that it has not made and will not make any such proscribed payment.

The obligations of OEMEA under this Article 10.5 shall survive the term of this Agreement. Upon FINANCE's reasonable request, OEMEA shall make records available to FINANCE to allow FINANCE to confirm compliance with OEMEA's obligations set forth under this provision.

10.6. WAIVER

The waiver of one breach or default hereunder shall not constitute the waiver of any other or subsequent breach or default.

10.7. NOTICES

Any notice, request, consent, demand or other communication required to be given hereunder shall be in writing. All notices between the parties shall be written in English and shall be deemed to have been given if sent by certified or registered mail, fax, or electronic mail to the addresses set forth on the attached Signature Page. Any change of address shall be communicated in writing within thirty (30) days.

10.8. GOVERNING LANGUAGE

This Agreement is in the English language only, which language shall be controlling in all respects. No Translation, if any, of this Agreement into the official language(s) of the Territory or any other language shall be of any force or effect in the interpretation of this Agreement or in a determination of the intent of either of the parties hereto. If this Agreement is translated to a language other than English, the English version shall control in case of any conflict.

10.9. ENTIRE AGREEMENT

This Agreement, including Schedule 1 attached hereto and incorporated herein by reference, sets forth the entire Agreement between the parties and specifically supersedes proposals and representations, whether written or oral, and any prior agreements between them, concerning the same subject matters between them.

10.10. AMENDMENT

This Agreement may be changed only by mutual agreement of the parties.

SCHEDULE 1

FEES AND PAYMENTS

The parties hereby acknowledge and agree to the following fees, payments and allocations. The parties also agree, from time to time, to negotiate in good faith to adjust these fees, payments and allocations to reflect changes in business conditions.

PART I **General Sublicense Fee (Article 5.1)**

A fee equal to thirty-nine percent (39%) of the net amount recognized as Program License and Support revenue (excluding Additional Support Services Revenue) under U.S. GAAP by OEMEA for the relevant Sublicense.

PART II **Multiple Jurisdiction License Revenue (Article 2.8.A)**

For sublicenses granted by FINANCE or a Member of the Oracle Group, unless otherwise agreed, sublicense revenue shall be earned fifty percent (50%) by the Member of the Oracle Group in whose Territory the Program is installed or used, and fifty percent (50%) by the Member of the Oracle Group who is responsible for negotiating the transaction, normally the Member of the Oracle Group who is a party to the contract. Revenue shall not be earned by any Member of the Oracle Group who is made party to the contract solely as a matter of convenience to the Sublicensee.

For sublicenses granted through a Corporate Account, the sublicense revenue shall be earned as agreed, or in the absence of an agreement, one hundred percent (100%) by the Member of the Oracle Group in whose Territory the Program is installed or used, and zero percent (0%) by the Member of the Oracle Group who is responsible for managing the relationship with the Corporate Account, normally the Member of the Oracle Group who is a party to the contract with the Corporate Account granting the sublicense. Corporate Account shall mean Subdistributors designated on the global list of Corporate Accounts, as revised from time to time.

For sublicenses granted through a designated Global Account, the sublicense revenue shall be earned as agreed, or in the absence of an agreement, one hundred percent (100%) by the Member of the Oracle Group who is responsible for managing the relationship with the Global Account, normally the Member of the Oracle Group who is a party to the contract with the Global Account granting the sublicense, and zero percent (0%) by the Member of the Oracle Group in whose territory the Program is installed or used. Global Account shall mean those multiple jurisdiction strategic agreements so designated by an Executive Vice President at the beginning of the fiscal year and included in the Global Accounts list.

For sublicenses granted through a Subdistributor other than a Corporate Account or Global Account, the sublicense revenue shall be earned as agreed, or in the absence of an agreement, one hundred percent (100%) by the Member of the Oracle Group in whose Territory the Program is installed or used, and zero percent (0%) by the Member of the Oracle Group who is responsible for managing the relationship with the Subdistributor, normally the Member of the

Oracle Group who is a party to the contract with the Subdistributor granting the sublicense.

For purposes of this Part II and Part III below of Schedule 1, the term "Member of the Oracle Group" shall include OEMEA.

PART III

Multiple Jurisdiction Support Revenue (Article 2.8.B)

All Support (Updates and Product Support) revenue related to multiple jurisdiction agreements shall be earned in the same manner as the license revenue from the same contract.

PART IV

Education Fee (Article 5.5)

A fee equal to three and seven tenths percent (3.7%) of the net amount recognized as education services revenue under US GAAP by OEMEA. PART V Education Revenue (Article 3.5). All education revenue shall be earned ninety-five percent (95%) by the Member of the Oracle Group performing the education and five (5%) by the Member of the Oracle Group who is responsible for negotiating the contract, or as otherwise agreed.