

Oracle Linux Customer Support terms

KCS agrees to provide the support services set out in the Quotation to the Customer for the Oracle Linux system set out in the Quotation for the period set out in the Quotation. The Customer agrees that:

- (1) The supported Oracle Linux system shall be restricted to the system on which the Customer is running the Oracle Linux /or Oracle VM application package;
- (2) the Oracle Management Pack for Linux and any other programs designated by Oracle as included with Oracle Linux and/or Oracle VM support services will be provided to the Customer as designated in the service offering defined in the Oracle Linux and/or Oracle VM support policies available at <http://vmw.oracle.com/us/supoort/libraryenterprise-linux-support-policies-069172.odf>;
- (3) any patches, bug fixes or other Linux support code made available as part of the Oracle Linux and/or Oracle VM support services will be provided to the Customer under the terms of Oracle's Linux and/or Oracle VM License Agreement which is available at <http://www.oracle.com/support/collateraValso-license.pdf>;
- (4) to the extent permitted by applicable law, neither KCS nor Oracle shall be liable for any damages, whether direct, indirect, incidental, or consequential, arising from the Customer's use of the Oracle Linux and/or Oracle VM services;
- (5) the Customer shall comply fully with all relevant export laws and regulations of the United States and other applicable export and import laws to assure that neither the service deliverables, nor any direct product thereof, are exported, directly or indirectly, in violation of applicable laws;
- (6) If a third party makes a claim against the Customer in relation to the Customer's use of Oracle Linux and/or Oracle VM support service that any covered programs furnished by Oracle ("material" or "materials") infringes its intellectual property rights, Oracle, at its sole cost and expense, will defend the Customer against the claim and indemnify the Customer from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by Oracle, provided that the Customer does the following:
 - (a) Notify Oracle promptly in writing, not later than 30 days after you receive notice of the claim (or sooner if required by applicable law);
 - (b) Give Oracle sole control of the defence and any settlement negotiations; and
 - (c) Give Oracle the information, authority, and assistance it needs to defend against or settle the claim.
- (7) If Oracle believes or it is determined that any of the material may have violated a third party's intellectual property rights, Oracle may choose to either modify the material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use by the Customer, or if these alternatives are not commercially reasonable, then Oracle may, upon 30 days' notice terminate Customer's right to receive indemnification for further use of the materials specified; and KCS will refund any unused, prepaid Oracle Linux and/or Oracle VM support fees the Customer has paid for the covered programs.
- (8) Notwithstanding the above, Oracle will not defend or indemnify the Customer in connection with claims, damages, liabilities, costs or expenses arising out of, or caused by, or related to:
 - (a) the Customer's alteration of the material;
 - (b) the Customer's use of a version of the material which has been superseded, if the infringement claim could have been avoided by using the current version of the material;
 - (c) the Customer's use of the material outside the scope of use identified in the user documentation or the Oracle Linux and/or Oracle VM Support Policies;
 - (d) the Customer's use of the material when the end user was not subscribed to receive Oracle Linux and/or Oracle VM support services from you;
 - (e) any information, design, specification, instruction, software, data, or material not furnished by Oracle
 - (f) the combination of any material with any products or services not provided by Oracle;
 - (g) the Customer's claim, lawsuit, or action against a third party.
- (9) Oracle will not indemnify the Customer for materials that are not part of the Oracle Linux and/or Oracle VM files as defined at <http://www.oracle.com/us/support/library/enterprise-linux-indemnification-069347.odf>.
- (10) Clauses 6 to 9 of this Oracle Linux Customer Support terms provides the Customer's exclusive remedy for any infringement claims or damages, liabilities, costs or expenses.
- (11) KCS reserves the right to terminate this Oracle Linux Customer Support agreement with if Oracle terminates KCS's right to distribute or support Oracle Linux for any reason whatsoever.