

Oracle Take Back and Recycling Transfer of Title Terms and Conditions

These Transfer of Title terms apply to any hardware product returned to Oracle and any and all related software ("Returned Product(s)") through Oracle's E-Waste Program ("E-Waste"), Oracle's Upgrade Advantage Program ("UAP"), or Oracle's System Return Credit Program ("SRC") (or equivalent programs), and any associated services described below ("Services") performed by Oracle.

1. Customer may request that Oracle pick up and dispose of Returned Product(s), in which case Customer is responsible to de-install, pack according to Oracle specifications, and stage the product for pick up. Oracle's packaging specifications and information on how to submit a pick up request are found at the following link: <http://www.oracle.com/us/products/servers-storage/take-back-and-recycling/index.html>.

Alternatively, Customer may request that Oracle perform de-install or other on-site Services for Returned Product(s) by contacting their Service Account Representative or submitting a request through My Oracle Support. Fees may apply for these Services. The Transfer of Title terms set forth below apply to all Returned Product(s), and where applicable, additional terms may apply through the UAP or SRC programs.

2. For all Returned Products:

a. Customer

(i) Customer warrants that it has clear and merchantable title to and license to transfer the Returned Product(s), and Customer transfers ownership of the hardware and associated software licenses in the Returned Product(s) to Oracle upon pick-up of the Returned Product(s) by Oracle or Oracle's logistics provider, free and clear of any liens and encumbrances ("Transfer"). Customer must be present at the designated pick up time to direct Oracle or Oracle's logistics provider to the Returned Product(s).

(ii) Customer is responsible to make a back-up or archival copy of:

- all Customer data and all software contained on all Returned Product(s) for which Customer is entitled to retain a back-up or archival copy, and
- all data and software on any systems or equipment that may be impacted by the Returned Product(s).

(iii) Customer is responsible to erase all data on Returned Product(s), such as hard disk drives and solid state drives ("drives") prior to pick up by Oracle. Customer must not leave any kind of removable media (e.g., tape) in a drive that is being returned; if Customer needs assistance with removal of media from a drive, Customer shall contact an Oracle service manager in advance of the scheduled pickup time.

(iv) Customer warrants, at the time of return, that the Returned Product(s) is/are generally in working condition and there are no hazardous or counterfeit, materials introduced after the original delivery of the product(s) to the Customer that make the Returned Product(s) unsuitable for lawful use, recycling or other disposition by Oracle.

(v) Customer will remain solely liable for any costs, expenses, fees, duties, charges and any other obligations or liabilities for:

- a) the Returned Product(s) prior to the Transfer; and
- b) any Returned Product(s) that Customer did not have clear and merchantable title to and/or the right to Transfer to Oracle

b. Oracle

(i) Oracle will pick up, transport and recycle or otherwise dispose of Returned Product(s) in compliance with applicable law, and Oracle will be responsible for any associated fees.

(ii) Oracle will erase data before reuse at Oracle's site. Any Returned Product(s) not targeted for reuse will be destroyed and recycled. For an explanation of Oracle's recycling process see: <http://www.oracle.com/us/products/servers-storage/take-back-and-recycling/index.html>.

(iii) It may not be possible for Oracle to identify and return Returned Product(s) shipped or made available for pickup in error (e.g., wrong product, additional product) by Customer. Oracle is not responsible for any costs of returning or re-installing Returned Product(s).

3. Oracle may not offer its E-Waste, UAP or SRC Programs (or equivalent programs or services) in every country or for all hardware products. Oracle may, in its discretion, decline specific requests for Returned Product(s), where, for example, the products are damaged or contain hazardous or counterfeit materials introduced after original delivery of the Returned Product(s) that prevent lawful use, recycling or other disposition. Oracle reserves the right to change or modify these terms and conditions at any time.

4. Except for any applicable credits under the UAP or SRC Programs, all Product Returns are at no cost to Customer.

5. All Product Returns are subject to applicable laws, including export requirements.

6. TO THE EXTENT ALLOWED BY LAW, ORACLE'S MAXIMUM LIABILITY FOR ANY DIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO THE RETURNED PRODUCT(S) AND/OR ANY TRANSPORT OR OTHER SERVICES, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE MARKET VALUE OF THE RETURNED PRODUCT(S). NEITHER PARTY SHALL BE LIABLE UNDER ANY LEGAL THEORY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. FURTHER, THE PRECEDING LIMITATIONS WILL APPLY, EVEN IF THE EXCLUSIVE REMEDIES PROVIDED FOR IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.