

SUPPLEMENTAL INFORMATION HEADER

The following pages contain supplemental information for this competitive document. The supplemental information is contained between this header and a trailer page. If you receive the trailer page, all supplemental information has been received.

If you do not receive the trailer page of this supplement, use the inquiry process described in the document to notify the Procurement Representative.

Note: portions of the supplemental information provided may or may not contain page numbers. The total number of pages indicated on the cover page does not include the pages contained in this supplement.

SUPPLEMENT ONE

Microsoft DAS Select Plus Enrollment

Program Signature Form

MBA/MBSA number

Agreement number

SGN-	Proposal ID
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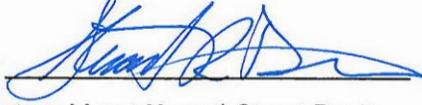
Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
Select Plus Affiliate Registration Form	X20-02349
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	Microsoft Affiliate
Name of Entity (must be legal entity name)* State of Ohio, Department of Administrative Services Signature*  Printed First and Last Name* Stuart Davis Printed Title* State Chief Information Officer Signature Date* 9/26/12	Microsoft Licensing, GP Signature _____ Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns)
Tax ID 31-1334820	Effective Date (may be different than Microsoft's signature date)

* indicates required field

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer	Outsourcer
Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* Printed Title* Signature Date*	Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* Printed Title* Signature Date*

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Licensing, GP

Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Prepared By: Name of Preparer Email of Preparer

			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>



Select Plus Affiliate Registration Form State and Local

Registration Type <i>Reseller to complete</i>	Lead Affiliate <input type="checkbox"/> Additional Affiliate <input checked="" type="checkbox"/>	Lead Affiliate Public Customer Number (PCN) <i>Reseller to complete</i>	
Agreement Number Microsoft or Reseller to complete		Additional Affiliate Public Customer Number (PCN) <i>Reseller to complete</i>	
Qualifying Contract <i>Reseller to complete</i>		Change Affiliate Anniversary Month <i>Reseller to complete</i>	October

By registering, Registered Affiliate accepts and agrees to be bound by the terms of the agreement and any applicable attachments (the "agreement"), and will be allowed to acquire Products in accordance with the Agreement.

If Registered Affiliate registers as an Additional Affiliate, Registered Affiliate represents that the Additional Affiliate is an eligible entity of the Lead Affiliate identified above.

This registration is valid when accepted by Microsoft and until it is terminated. Registered Affiliate will receive an acceptance notification confirming the effective date of this registration. Microsoft may refuse to accept a registration if there is a business reason for doing so. Either party may terminate this registration for any reason with 60 days advance written notice. Terminating this registration will terminate the Registered Affiliate's ability to place Orders under the agreement.

Each Registered Affiliate may qualify for and receive additional benefits by electing Software Assurance membership. By electing Software Assurance membership, the Registered Affiliate is committing to include Software Assurance with every eligible Order. To make this election, complete and submit the Select Plus Software Assurance Membership Election Form.

Qualifying systems Licenses. The operating system Licenses granted under this program are upgrade Licenses only. *Full operating system Licenses are not available under this program.* If Customer selects the Windows Desktop Operating System Upgrade, all qualified desktops on which the Customer runs the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at <http://www.microsoft.com/licensing/contracts>. Exclusions are subject to change when new versions of Windows are released.

In order to use a third party to reimagine the Windows Operating System Upgrade, Registered Affiliate must certify that it has acquired qualifying operating system licenses. See the Product List for details.

1. Primary Contact Information.

Registered Affiliate must identify an individual from inside its organization to serve as the primary contact. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others.

Name of entity* State of Ohio, Department of Administrative Services
Contact name*: First Glen Last Coleman
Contact email address* glen.coleman@oit.ohio.gov
Street address* 30 E. Broad St
City* Columbus **State*** Ohio **Postal code*** 43215
Country* USA
Phone* 614-728-6725 **Fax**
Tax ID

2. Notices and online administrator.

This individual receives contractual notices. They are also the online Administrator for the Volume Licensing Service Center and may grant online access to others.

Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State* Postal code*

Country*

Phone* Fax

This contact is a third party (not the Registered Affiliate). Warning: This contact receives personally identifiable information of the Registered Affiliate.

3. Language preference.

Select the language for notices. English

4. Ship to delivery address.

If media election form is not completed, provide a ship to/download to location for applying sales tax.

Same as notices contact

Name of entity*

Contact name* First Last

Contact email address (required for online access)*

Street address (no PO boxes accepted)*

City* State/Province* Postal code*

County Country*

Phone* Fax

In City Limits?

Estimated Tax Rate

5. Reseller information.

Reseller company name* Dell Inc.

Street address (PO boxes will not be accepted)* One Dell Way

City* Round Rock **State*** TX **Postal code*** 78682

Country* US

Contact name* Nathan Schramm

Phone* 847-465-3700 **Fax**

Contact email address* US_MS_VL_Admin@Dell.com

The undersigned confirms that the information is correct.

<p>Name of Reseller* Dell Inc.</p> <p>Signature* _____</p> <p>Printed name*</p> <p>Printed title*</p> <p>Date*</p>

Changing a Reseller. If Microsoft or Reseller chooses to discontinue doing business with one another, Registered Affiliate must choose a replacement Reseller. If Registered Affiliate or Resellers intends to

terminate their relationship, the initiating party must notify Microsoft and the other party, using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

6. **Supplemental Contacts.**

Customer's Notices Contact identified above is the default contact for administrative and other communications. However, Customer may designate additional contacts using the Supplemental Contact Information form.

7. **Software Assurance Membership Election.**

Each Registered Affiliate may qualify for and receive additional benefits with Software Assurance membership. By electing Software Assurance membership below, Registered Affiliate is committing for a minimum period of one year to include Software Assurance with every eligible Order, and to maintain Software Assurance for all copies of Products licensed under this program for at least one Product pool.

Product pools	Yes	No
Applications	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Systems	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Servers	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note: If "Yes" is marked, orders for Licenses without Software Assurance will not be accepted.

Only valid if attached to a signature form.

SUPPLEMENT TWO

Microsoft Enterprise
Agreement Executed

Program Signature Form

MBA/MBSA number

Agreement number

SGN-	dbeale09142012
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Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Agreement	X20-02032 (new)
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
EA Amendment - Establish Price Levels	CTM-a (new)
EA Amendment - Definitions	CTM-b (new)
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	Microsoft Affiliate
Name of Entity (must be legal entity name)* State of Ohio Signature* <u>Robert Blair</u> Printed First and Last Name* ROBERT BLAIR Printed Title* DIRECTOR, ODAS Signature Date* 9.24.12	<div style="border: 1px solid black; padding: 5px;"> Microsoft Licensing, GP  Microsoft Licensing, GP SEP 20 2012 Jason Hamill Date Authorized on behalf of Microsoft Licensing, GP <small>(date Microsoft Affiliate countersigns)</small> </div> Signature _____ Printed First and Last Name* _____ Printed Title _____ Signature Date _____ <small>(date Microsoft Affiliate countersigns)</small>
Tax ID	Effective Date <small>(may be different than Microsoft's signature date)</small>

* indicates required field

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer	Outsourcer
Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* _____ Printed Title* _____ Signature Date* _____	Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* _____ Printed Title* _____ Signature Date* _____

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Licensing, GP
 Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Prepared By: Name of Preparer _____ Email of Preparer _____

Enterprise Agreement Amendment ID CTM

dbeale09142012b

Notwithstanding anything to the contrary, effective as of October 1, 2012, any new or renewal Enterprise Enrollment signed under this Agreement will receive the following the following price levels from the then-current published price list as determined below:

Establishing Price Levels. Each Product is assigned to a Product pool (applications, systems, or servers). There are four price levels (A, B, C, and D). An Enrolled Affiliate's price level for Enterprise Products for the initial order will be as noted below, and Additional Products and Enterprise Product true ups ordered from that pool will be priced at level "D" at the time of Enrollment.

Enrolled Affiliate's Enterprise Products selected and corresponding price levels:

- Office Pro Plus + Window Upgrade + Enterprise Client Access License – D-3%
- Office Pro Plus + Window Upgrade + Core Client Access License – D-2%
- Any 1 or 2 Enterprise Products – D-1%

This amendment must be attached to a signature form to be valid.

Supplemental Contact Information Form State and Local

This form can be used in combination with Agreement and Enrollment/Registration. However, a separate form must be submitted for each Enrollment/Registration, when more than one is submitted on a signature form. For the purposes of this form, "Entity" can mean the signing Entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a Volume Licensing program agreement. Primary and Notices contacts in this form will not apply to Enrollments or Registrations.

This form applies to: Agreement
 Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the Entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of Entity* State of Ohio, Department of Administrative Services

Contact name*: First Glen Last Coleman

Contact email* glen.coleman@oit.ohio.gov

Street address* 30 E Broad St.

City* Columbus **State*** Ohio **Postal code*** 43215

Country* US

Phone* 614-728-6725 **Fax**

This contact is a third party (not the Entity). Warning: This contact receives personally identifiable information of the Entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of Entity* State of Ohio, Department of Administrative Services

Contact name*: First Glen Last Coleman

Contact email* glen.coleman@oit.ohio.gov

Street address* 30 E Broad St

City* Columbus **State*** Ohio **Postal code*** 43215

Country* US

Phone* 614-728-6725 **Fax**

This contact is a third party (not the Entity). Warning: This contact receives personally identifiable information of the Entity.

3. Subscriptions manager.

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of Entity* State of Ohio, Department of Administrative Services

Contact name*: First Glen Last Coleman

Contact email* glen.coleman@oit.ohio.gov

Street address* 30 E Broad St.

City* Columbus **State*** Ohio **Postal code*** 43215

Country* US

Phone* 614-728-6725 **Fax**

This contact is a third party (not the Entity). Warning: This contact receives personally identifiable information of the Entity.

4. Online Services manager.

This contact will be provided online permissions to manage the Online Services ordered under the Enrollment or Registration.

Name of Entity* State of Ohio, Department of Administrative Services

Contact name*: First Glen Last Coleman

Contact email* glen.coleman@oit.ohio.gov

Street address* 30 E Broad St.

City* Columbus **State*** Ohio **Postal code*** 43215

Country* US

Phone* 614-728-6725 **Fax**

This contact is a third party (not the Entity). Warning: This contact receives personally identifiable information of the Entity.

5. Customer Support Manager (CSM):

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of Entity* State of Ohio, Department of Administrative Services

Contact name*: First Glen Last Coleman

Contact email* glen.coleman@oit.ohio.gov

Street address* 30 E Broad St.

City* Columbus **State*** Ohio **Postal code*** 43215

Country* US

Phone* 614-728-6725 **Fax**

This contact is a third party (not the Entity). Warning: This contact receives personally identifiable information of the Entity.

6. Primary contact information:

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of Entity* State of Ohio, Department of Administrative Services

Contact name*: First Glen Last Coleman

Contact email* glen.coleman@oit.ohio.gov
Street address* 30 E. Broad St.
City* Columbus State* Ohio Postal code* 43215
Country*: US
Phone* 614-728-6725 Fax

7. Notices contact and online administrator information:

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

Same as primary contact

Name of Entity*

Contact name*: First Last

Contact email*

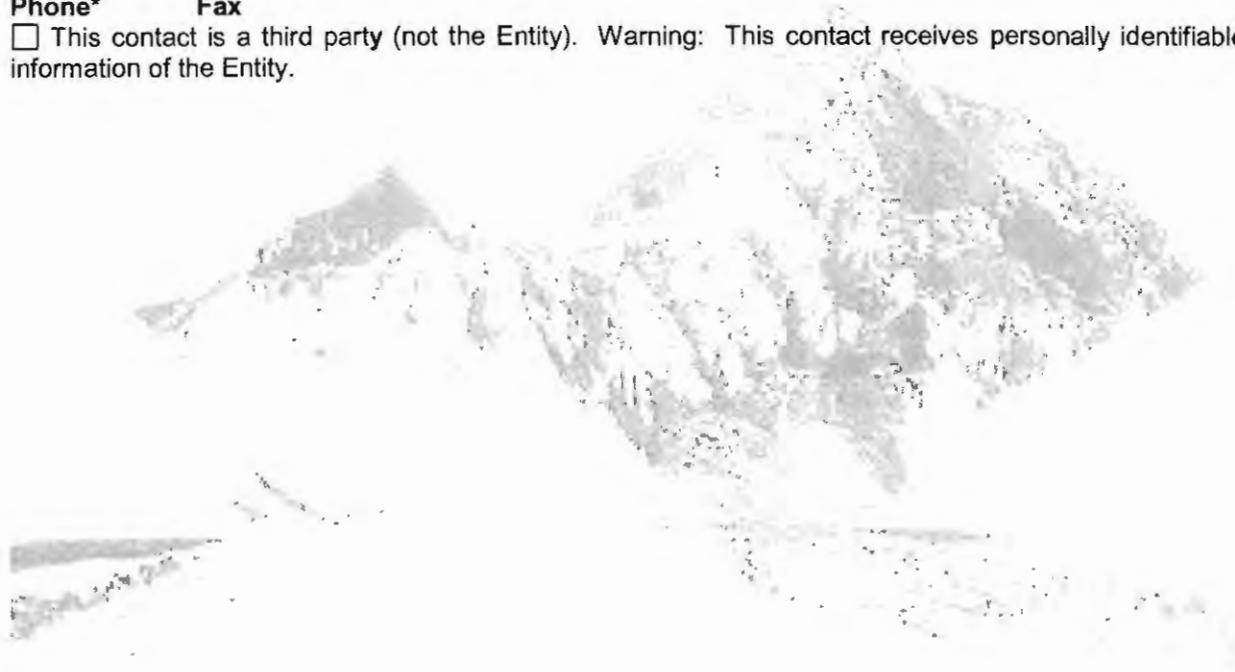
Street address*

City* State* Postal code*

Country*:

Phone* Fax

This contact is a third party (not the Entity). Warning: This contact receives personally identifiable information of the Entity.



Enterprise Agreement
Amendment ID CTM

dbeale09142012a

1. The section on page one between the table of contents and section 1, Definitions is hereby amended through mutual agreement of the parties and restated as follows:

Effective date. The effective date of this agreement is the date *the State of Ohio director of the Department of Administrative Services or his designee signs the agreement signature form*. Any reference in this agreement or an Enrollment to "day" will be a calendar day.

This agreement consists of (1) these agreement terms and conditions, *any amendments*, and the signature form and all attachments identified therein, (2) the Product List, (3) the Product Use Rights applicable to Products licensed under this agreement, (4) any Affiliate Enrollment entered into under this agreement.

Please note: Several documents referenced in this agreement but not attached to the signature form may be found at: <http://www.microsoft.com/licensing/contracts> and are incorporated by reference, including the Product List and Product Use Rights. These documents may contain additional terms and conditions for Products licensed under this agreement and may be changed from time to time. Customer and/or its Affiliates should review such documents carefully, both at the time of signing and periodically, to ensure a full understanding of all terms and conditions applicable to Products licensed. *Notwithstanding anything to the contrary, in lieu of your obligation to indemnify us under various provisions of the product use rights, you agree that to the extent permitted by Ohio Revised Code Chapter 2743 Customer will be responsible for any costs and damages arising from any claim or action resulting from your fault or negligence.*

2. Section 1, "Definitions, Fixes" is hereby amended through mutual agreement of the parties and restated as follows:

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft releases generally (such as service packs).

3. Section 2, "How the Enterprise and Enterprise Subscription program works" is hereby amended through mutual agreement of the parties to include new paragraph h as follows:

Affiliates may rely on this Agreement. Whenever an Affiliate relies on this Agreement to issue a purchase order, the Affiliate will step into the shoes of the Customer under this Agreement for purposes of establishing terms and conditions for an individual Affiliate's Enrollment. For clarity, the term "Customer" as used in the preceding sentence means the entity that has entered into this agreement. In addition this provision 2h is applicable to Customer where Customer is also an Affiliate. Any changes made by an Affiliate at the Enrollment level shall trump the terms of this Agreement for that affiliate. Microsoft must look exclusively to the Affiliate for performance for that affiliate. All terms for payment are between the Affiliate signing the Enrollment and their chosen reseller.

4. Section 3, "Licenses for Products", paragraph b is hereby amended through mutual agreement of the parties and restated as follows:

b. Use by Affiliates. The Enrolled Affiliate may sublicense the right to use the Products to any Affiliates covered under its Enrollment, but Affiliate recipient of these Licenses may not sublicense these rights and their use must be consistent with the License terms contained in this agreement. *Microsoft agrees that the State may provide the Product to on-site consultants and other third party contractors who are working on a project for which the Product or Fix applies.*

5. Section 5b "Copies for training/evaluation and back-up" is hereby amended through mutual agreement of the parties and restated as follows:

b. Copies for training/evaluation and back-up. For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Products in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60 day evaluation period, and (3) use *two complimentary copies per enrollment* of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Product Use Rights.

6. Section 6a "License Transfers" is hereby amended through mutual agreement of the parties and restated as follows:

a. License Transfers. License transfers are not permitted, except as explicitly set forth in the Perpetual License Transfer Form. The resale of Licenses is prohibited, including any transfer by a Customer or its Affiliate(s) for the purpose of transferring those Licenses to an unaffiliated third party. *Microsoft agrees that transfers between Enrolled Affiliates are permitted as long as the licenses have been paid for in full.*

7. Section 7 "Term and termination" is hereby amended through mutual agreement of the parties and the amended portions restated as follows:

a. Term. *The term of this agreement will be 36 months from the Effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.*

The Customer's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the payments or any other obligations due by the Customer under this Agreement, the Customer will be released from its obligations on the date funding expires.

The current General Assembly cannot commit a future General Assembly to any expenditure. Therefore, the duration of the initial term of this Agreement cannot go past the current biennium. The Customer may continue this Agreement past the current biennium by issuing written notice of continuation to Microsoft provided such continuation option(s) in this Agreement does not go past subsequent biennia

Microsoft agrees that: 1) the Customer has the right to not renew this Agreement at the end of a biennium; and 2) Microsoft will not charge Customer or any Enrolled Affiliate early termination charges of any kind for a non-renewal,

c. Termination for cause. Either party to an Enrollment may terminate it if the other party materially breaches its obligations under this agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days notice and opportunity to cure.

If Microsoft gives such notice to an Enrolled Affiliate *that is a state agency*, Microsoft will give Customer a copy of that notice as well and Customer agrees to assist in attempting to resolve the breach. *Microsoft will also provide notice to the Customer for Enrolled Affiliates that are not state agencies, but such notice will only affect that Enrolled Affiliate's order and not the agreement.* If the breach also affects other Enrollments and cannot be resolved between Microsoft and Customer within a reasonable period of time, Microsoft may also terminate this agreement and all other Enrollments under it, unless the basis for termination of the Enrollment is non-appropriation of funds to the Enrolled Affiliate, in which event Microsoft may only terminate the affected Enrollment(s). If an Enrolled *Affiliate that is a state agency* ceases to be Customer's Affiliate, Customer must promptly notify Microsoft, and Microsoft may terminate its Enrollment.

e. Effect of termination or expiration. When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. *The State will pay for any unpaid payments for orders received and due up to the time of termination, or any order of any kind, including subscription services, remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.*

8. Section 10 "Confidentiality" is hereby amended through mutual agreement of the parties and restated as follows:

- 1) *The parties acknowledge that the terms and conditions of this agreement are not confidential. Notwithstanding the foregoing, if Customer receives a request for a copy of this agreement from a non-affiliated third party pursuant to Customer's open/public records laws, Customer, when possible, will provide Microsoft notice of the request and, so that Microsoft will have an opportunity to respond before the information requested is released.*
- 2) *Neither party will disclose Confidential Information as defined below. The parties agree that this section governs the parties' exchange of Confidential Information as may be necessary to develop its business relationship. For the avoidance of doubt, the Confidentiality term described in this section 2, do not apply to nor do these terms govern Microsoft's handling of Customer Data. In all instances under this agreement, Microsoft's handling of Customer Data shall be subject to and governed by Microsoft's data security policy.*

For the avoidance doubt, the parties also acknowledge that this Confidentiality provision recognizes that when there is a business need to do so, Microsoft and Customer may need to share/exchange their respective Confidential Information with each other to develop a more meaningful business relationship. This section provides Microsoft and Customer with a well-balanced, commercially reasonable and comprehensive set of confidentiality terms that enable both parties to share/exchange a wide range of Confidential Information with each other knowing with confidence that significant confidentiality protections are in place. The confidentiality terms denoted below do not govern Microsoft's handling of Customer Data. In all instances under this Agreement, Microsoft's handling of Customer Data shall be governed as described under various other provisions of this Agreement and by Microsoft's data security policy.

a. What is included. *"Confidential Information" is non-public information, know-how and Trade Secrets in any form that*

- (i) are designated as "confidential";*
- (ii) a reasonable person knows or reasonably should understand to be confidential; or*
- (iii) include non-public information regarding either party's products or customers, marketing and promotions,*

b. What is not included. *The following types of information, however marked, are not Confidential Information. Information that:*

- (i) is, or becomes, publicly available without a breach of this agreement;*
- (ii) was lawfully known to the receiver of the information without an obligation to keep it confidential;*
- (iii) is received from another source who can disclose it lawfully and without an obligation to keep it confidential;*
- (iv) is independently developed; or*
- (v) is a comment or suggestion one party volunteers about the other's business, products or services.*
- (vi) Information that is considered to be public record pursuant to Ohio Law.*

c. Treatment of Confidential Information.

- (i) In general.** *Subject to the other terms of this agreement, each party agrees:*
 - it will not disclose the other's Confidential Information to third parties; and*
 - it will use and disclose the other's Confidential Information only for purposes of the parties' business relationship with each other.*

(ii) **Security precautions.** Subject to the other terms of this agreement, each party agrees:

- to take reasonable steps to protect the other's Confidential Information -- these steps must be at least as protective as those the party takes to protect its own Confidential Information;
- to notify the other promptly upon discovery of any unauthorized use or disclosure of Confidential Information; and
- to cooperate with the other to help regain control of the Confidential Information and prevent further unauthorized use or disclosure of it.

(iii) **Sharing Confidential Information with Affiliates and representatives.**

- A "Representative" is an employee, contractor, advisor, or consultant of one of the parties or of one of the parties' Affiliates.
- Each party may disclose the other's confidential information to its Representatives (who may then disclose that Confidential Information to other of that party's Representatives) only if those Representatives have a need to know about it for purposes of the parties' business relationship with each other. Before doing so, each party must:
 - 1) ensure that Affiliates and Representatives are required to protect the Confidential Information and sign a statement that includes terms consistent with this agreement before disclosing confidential information to any such Affiliate or Representative; and
 - 2) accept responsibility for its employees' use of Confidential Information.
- For any Affiliate or Representative not otherwise covered by a written agreement to protect Confidential Information, --where such written agreement includes the terms consistent with the terms of Section 10 of this agreement, --before disclosing Confidential Information, or for whom responsibility to protect Confidential Information cannot be verified, then no Confidential Information may be shared with that Affiliate or Representative until such time as a written agreement to protect the Confidential Information is in effect between Microsoft and the responsible Affiliate.
- Neither party is required to restrict work assignments of Representatives who have had access to Confidential Information. Neither party can control the incoming information the other will disclose to it in the course of working together, or what that party's Representatives will remember, even without notes or other aids. Each party agrees that use of information in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

(iv) **Disclosing Confidential Information if required to by law.** Each of us may disclose the other's Confidential Information if required to comply with a court order or other government demand that has the force of law. Before doing so, each of us agrees to seek a protective order to prevent the disclosure of the other's Confidential Information and, when possible, give the other enough prior notice to provide a reasonable chance for the information owner to seek other levels of protection to prevent disclosure.

d. Length of Confidential Information obligations. Except as permitted above, neither party will use or disclose the other's Confidential Information for five years after it is received. The five-year time period does not apply if applicable law requires a longer period or the Product Use Rights provide a more specific requirement.

9. Section 12 "Enrolled Affiliate's Responsibility" paragraphs b (sentence following (viii)), d, and e are hereby amended by mutual agreement of the parties and restated as follows:

Enrolled Affiliate will be responsible for any costs or damages, as determined by a court of competent jurisdiction,, that result from any of these actions.

d. Enrolled Affiliate's Responsibility. Enrolled Affiliate will be responsible, as *determined by a court of competent jurisdiction*, for any costs or damages arising from any claims made by an unaffiliated third party that:

e. Obligations of protected party. Enrolled Affiliate must notify Microsoft promptly in writing of a claim subject to the subsection titled "Microsoft's agreement to protect" and Microsoft must notify Enrolled Affiliate promptly in writing of a claim subject to the subsection titled "Enrolled Affiliate's Responsibility." To the extent permitted by applicable law, where Enrolled Affiliate invokes its right to protection it must (1) *allow Microsoft to equally participate in its defense or settlement with counsel of our choice. Notwithstanding anything in this section to the contrary, Enrolled Affiliate does not accord to Microsoft through its attorney(s), any right to represent Enrolled Affiliate in any legal matter; such rights being governed by Ohio Revised Code Section 109.02;* and (2) provide reasonable assistance in defending the claim. Microsoft will reimburse Enrolled Affiliate for reasonable out of pocket expenses that it incurs in providing assistance.

10. Section 13 "Limitation on liability", subparagraph (i) through (v) are hereby amended by mutual agreement of the parties and restated as follows:

- (i) Microsoft's and Enrolled Affiliate's obligations under the section titled "Defense of infringement, misappropriation, and third party claims" as *determined by a court of competent jurisdiction*;
- (ii) liability for damages caused by either party's gross negligence or willful misconduct, or that of its employees or its agents, and awarded by a court of final adjudication (provided that, in jurisdictions that do not recognize a legal distinction between "gross negligence" and "negligence," "gross negligence" as used in this subsection shall mean "recklessness") as *determined by a court of competent jurisdiction*;
- (iii) liabilities arising out of any breach by either party of its obligations under the section entitled "Confidentiality", except that Microsoft's liability arising out of or in relation to Customer Data shall in all cases be limited to the amount Enrolled Affiliate paid for the Online Service giving rise to that liability during the prior 12 months as *determined by a court of competent jurisdiction*;
- (iv) liability for personal injury or death caused by either party's negligence, or that of its employees or agents, or for fraudulent misrepresentation as *determined by a court of competent jurisdiction*; and
- (v) violation by either party of the other party's intellectual property rights as *determined by a court of competent jurisdiction*;

b. EXCLUSION OF CERTAIN DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES, OR CONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATIONS (EXCEPT TO THE EXTENT THAT SUCH VIOLATION RELATES TO CUSTOMER DATA), THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR THE PARTIES' RESPECTIVE OBLIGATIONS IN THE SECTION TITLED "DEFENSE OF INFRINGEMENT, MISAPPROPRIATION, AND THIRD PARTY CLAIMS AS DETERMINED BY A COURT OF COMPETENT JURISDICTION."

11. Section 15 "Entire Agreement" paragraphs g and i are hereby amended and new paragraphs following paragraph p are added by mutual agreement of the parties and restated as follows:

g. Entire agreement. This agreement, the Product List, all Enrollments under this agreement, and the Product Use Rights constitute the entire agreement concerning the subject matter and supersede any prior or contemporaneous communications. In the case of a conflict between any documents referenced in this agreement that is not expressly resolved in the documents, their terms will control in the following order: (1) these terms and conditions, *any amendments*, and the accompanying signature form; (2) an Enrollment; (3) the Product List; (4) the Product Use Rights; (5) any other documents; and (6) all orders submitted under this agreement.

i. No transfer of ownership. Microsoft does not transfer any ownership rights in any licensed Product. *For purposes of clarity, Microsoft does permit the transfer of license use rights (See Section 6 of this Agreement), but in no case does Microsoft transfer ownership.*

12. New Paragraphs inserted following paragraph p titled "U.S. export jurisdiction":

The parties agree and acknowledge that the provision Drug Free Workplace described below in 15(r) does not apply in the context of this software license agreement, however, to the extent that the Drug Free Workplace provision does have application, the parties agree that such provision will be considered part of this agreement and that Microsoft will be bound thereby.

g. Warranty Against an Unresolved Finding for Recovery *Microsoft warrants that the Contractor is not subject to an unresolved finding for recovery under ORC §9.24. If the warranty is false on the date the parties signed this Contract, the Contract is void ab initio.*

r. Drug Free Workplace. *Microsoft agrees to comply with all applicable Customer and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all employees, while working on Customer property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.*

s. Elections Law. *Microsoft by signature affixed on this document hereby certifies that all applicable parties listed in O.R.C. Section 3517.13 are in full compliance with O.R.C. Section 3517.13. If Microsoft accepts an Agreement and/or purchase order issued under the Agreement without proper certification, the Department of Administrative Services shall deem Microsoft in breach and Microsoft will be subject to all legal remedies available to the Department of Administrative Services up to and including debarment from doing business with the Customer.*

Additional information regarding Contribution Restrictions is available on the Office of Budget & Management's website at: www.obm.ohio.gov (we are ok to accept that)

t. Equal Employment Opportunity. *Microsoft will comply with all Customer and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders.*

Before an Agreement can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the Department of Administrative Services Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Ohio Business Gateway at: <http://business.ohio.gov/efiling/>

u. Ethics. *All contractors who are actively doing business with the Customer or who are seeking to do business with the Customer are responsible to review and comply with all relevant provisions of O.R.C. Sections 102.01 to 102.09.*

This amendment must be attached to a signature form to be valid.

Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

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This Microsoft Enterprise Agreement is entered into between the entities identified on the program signature form.

Effective date. The effective date of this agreement is the effective date of the first Enrollment or the date Microsoft accepts this agreement, whichever is earlier. Any reference in this agreement or an Enrollment to "day" will be a calendar day.

This agreement consists of (1) these agreement terms and conditions and the signature form and all attachments identified therein, (2) the Product List, (3) the Product Use Rights applicable to Products licensed under this agreement, (4) any Affiliate Enrollment entered into under this agreement, and (5) any order submitted under this agreement.

Please note: Several documents referenced in this agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated by reference, including the Product List and Product Use Rights. These documents may contain additional terms and conditions for Products licensed under this agreement and may be changed from time to time. Customer and/or its Affiliates should review such documents carefully, both at the time of signing and periodically, to ensure a full understanding of all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of

Customer's state and located within Customer's state jurisdiction and geographic boundaries; and

(iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and

b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft;

"available" means Microsoft has made Licenses for that Product available on the Product List for ordering under a particular licensing program;

"Customer" means the entity that has entered into this agreement and its Affiliates;

"Customer Data" means all data, including all text, sound, or image files that are provided to Microsoft by, or on behalf of, Enrolled Affiliate through its use of the Online Services.

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates, that has entered into an Enrollment under this agreement;

"Enrollment" means the document that an Enrolled Affiliate submits under this agreement to place its initial order;

"Enterprise" means the Enrolled Affiliate and the Affiliates it chooses on its Enrollment to include in its enterprise;

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as service packs).

"License" means Enrolled Affiliate's right to use the quantity of a Product ordered. For certain Products, a License may be available on a subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses under this agreement.

"L&SA" means a License and Software Assurance for any Product ordered;

"Microsoft" means the Microsoft Affiliate that has entered into this agreement or an Enrollment and its Affiliates, as appropriate;

"Online Service" means the Microsoft-hosted services identified in the Online Services section of the Product List.

"Product" means all software, Online Services and other web-based services, including pre-release or beta versions, identified on the Product List.

"Product List" means the statement published by Microsoft from time to time on the World Wide Web at <http://www.microsoft.com/licensing/contracts> or at a successor site that Microsoft identifies, which identifies the Products that are or may be made available under a program (which availability may vary by region) and any Product-specific conditions or limitations on the acquisition of licenses for, or use of, those Products.

"Product Use Rights" means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at <http://www.microsoft.com/licensing/contracts> or at a successor site.

"Reseller" means a large account Reseller authorized by Microsoft to resell Licenses under this program;

"Service Level Agreement" means the document specifying the standards Microsoft agrees to adhere to and by which it measures the level of service for an Online Service.

"Software Assurance" means an offering that provides new version rights and other benefits for Products as further described in the Product List.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy;

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

2. How the Enterprise and Enterprise Subscription program works.

The Enterprise and Enterprise Subscription Program. The Enterprise and Enterprise Subscription programs establish a Customer's overall licensing framework and the applicable terms and conditions. Under the Enterprise program, Customer may license Products by entering into Enrollments. The Enterprise Subscription program offers Customer the same options as the Enterprise Program, but on a subscription basis, with an optional buy-out to obtain perpetual Licenses.

- a. Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments.
- b. Licenses.** The types of Licenses available are L&SA, Licenses obtained under Software Assurance and Subscription Licenses. These License types as well as additional License Types are defined in the Product List.
- c. How Enrolled Affiliates acquire Licenses.** An Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders will be made out to and submitted to the Enrolled Affiliate's Reseller. Microsoft will invoice that Reseller according to the terms in the applicable Enrollment.
- d. Choosing and maintaining a Reseller.** Each Enrolled Affiliate must choose and maintain a Reseller authorized in the Enrolled Affiliate's location.
- e. Pricing.**
 - (i) Establishing Price Levels.** Each Product generally is assigned to a Product pool (e.g., applications, systems, or servers). Each Product pool will be assigned one of four price levels (A, B, C, and D). Enrolled Affiliate's Price Level will be Level D for all Enterprise Products, Enterprise Online Services, Online Services and Additional Products ordered under any Enrollment.
 - (ii) Placing Orders through Reseller.** Orders under an Enrollment will be made to the Reseller. Microsoft will invoice the Reseller according to the terms in the applicable Enrollment. Throughout this agreement the term "price" refers to reference price. The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.
- f. Order Requirements.** Order Requirements are outlined in each Enrollment.
- g. Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.

3. Licenses for Products.

- a. General.** Enrolled Affiliate will have the number of Licenses ordered for the latest version of a Product, and may use prior versions as permitted in the Product Use Rights, so long Microsoft receives timely orders from Reseller for all required Licenses for such Products and complies with applicable license terms. The Licenses obtained under an Enrollment are not

related to any order or fulfillment of software media. The ability to use a Product ordered may be affected by minimum hardware or software requirements.

- b. **Use by Affiliates.** The Enrolled Affiliate may sublicense the right to use the Products to any Affiliates covered under its Enrollment, but Affiliate recipient of these Licenses may not sublicense these rights and their use must be consistent with the License terms contained in this agreement.
- c. **When Licenses become perpetual.** The right to run any Product licensed under an Enrollment is temporary unless and until it becomes perpetual as follows:
 - (i) A License is temporary until Enrolled Affiliate's Reseller has paid for a License in full and the applicable initial Enrollment or renewal term during which the License was ordered must have expired or been terminated as permitted in this agreement.
 - (ii) Subscription Licenses are never perpetual. If a buy-out option is available, Enrolled Affiliate may obtain a perpetual License by exercising the buy-out option and paying for the License in full.
 - (iii) Enrolled Affiliate will have perpetual Licenses to use the Products ordered in the latest version available (or any prior version) as of the date of expiration, termination, or renewal.
 - (iv) All perpetual Licenses acquired under this agreement remain subject to the terms of this agreement and such terms survive expiration or termination of this agreement or an Enrollment.
- d. **Perpetual Licenses through Software Assurance.** Perpetual Licenses received through Software Assurance supersede and replace the underlying perpetual Licenses for which Software Assurance coverage was ordered. In the case of Early Termination, the terms in Section 7 titled "Term and Termination will apply."
- e. **License confirmation.** This agreement, the applicable Enrollment, the Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of Licenses, together with proof of payment, will be the Enrolled Affiliate's evidence of all Licenses obtained under its Enrollment.
- f. **Reorganizations, Consolidations, and Privatizations.** If the number of Qualified Devices or Qualified Users covered by an Enrollment changes by more than ten percent as a result of a reorganization, consolidation, or privatization of an Enrolled Affiliate, Microsoft will work with the Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this agreement. If an Enrolled Affiliate consolidates with a third party with an existing agreement or enrollment, Microsoft will work with the Enrolled Affiliate in good faith to accommodate its changed circumstances in the context of this agreement.

4. How to know what Product Use Rights apply.

- a. **Product Use Rights.** The Product Use Rights in effect on the effective date of an Enrollment will apply to Enrolled Affiliate's use of then-current versions of each Product (excluding Online Services). For future versions, the Product Use Rights in effect when those future versions are first released will apply. In both cases, subsequent changes made by Microsoft to the Product Use Rights for a particular version will not apply to Enrolled Affiliate's use of that version, unless Enrolled Affiliate chooses to have such changes apply. The use rights for Online Services and the process for updating them as the Online Services evolve are detailed in the Product Use Rights.
- b. **Product Use Rights for earlier versions (downgrade).** If Enrolled Affiliate runs an earlier version of a Product than the version that was current on the Enrollment effective date, the Product Use Rights for the version licensed, not the version being run, will apply. However, if

the earlier version includes components that are not part of the licensed version, any Product Use Rights specific to those components will apply to Enrolled Affiliate's use of those components.

- c. **Reservation of rights.** All rights not expressly granted are reserved.

5. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, if applicable, as it needs to distribute them within its organization. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to use reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Products in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60 day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Product Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
 - (i) Separate Licenses must be owned from the source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., upgrade or full License) must be identical to the Product type from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product List.
 - (v) Re-images made under this subsection remain subject to the terms and use rights provided with the License from the separate source.
 - (vi) This subsection does not create or extend any warranty or support obligation.

6. Transferring and reassigning Licenses.

- a. **License Transfers.** License transfers are not permitted, except as explicitly set forth in the Perpetual License Transfer Form. The resale of Licenses is prohibited, including any transfer by a Customer or its Affiliate(s) for the purpose of transferring those Licenses to an unaffiliated third party.
- b. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses may be reassigned within the Enterprise as described in the Product Use Rights.

7. **Term and termination.**

- a. **Term.** The term of this agreement will be 36 months from the Effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this agreement, without cause, upon 60 days written notice. Such termination will merely terminate either party's and its Affiliates' ability to enter into new Enrollments under this agreement. Such termination will not affect any Enrollment or order not otherwise terminated, and any terms of this agreement applicable to any Enrollment or order not otherwise terminated will continue in effect with respect to that Enrollment or order. An Enrolled Affiliate may terminate an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Enrollment are not appropriated or allocated for such purpose.
- c. **Termination for cause.** Either party to an Enrollment may terminate it if the other party materially breaches its obligations under this agreement, including any obligation to submit orders or pay invoices (even if such non-payment is caused by non-appropriation of funds). Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days notice and opportunity to cure.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft will give Customer a copy of that notice as well and Customer agrees to assist in attempting to resolve the breach. If the breach also affects other Enrollments and cannot be resolved between Microsoft and Customer within a reasonable period of time, Microsoft may also terminate this agreement and all other Enrollments under it, unless the basis for termination of the Enrollment is non-appropriation of funds to the Enrolled Affiliate, in which event Microsoft may only terminate the affected Enrollment(s). If an Enrolled Affiliate ceases to be Customer's Affiliate, Customer must promptly notify Microsoft, and Microsoft may terminate its Enrollment.

- d. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminate an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
 - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered, or
 - (ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:
 - 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
 - 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.
 - (iii) In the case of Early Termination under Subscription Enrollments, Enrolled Affiliate will have the following options:
 - 1) For eligible products Enrolled Affiliate may obtain perpetual Licenses as described in the section titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.

- 2) Where not exercising buy-out option, in the event of breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

- e. **Effect of termination or expiration.** When an Enrollment expires or is terminated,
 - (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments or any order of any kind, including subscription services, remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
 - (ii) Enrolled Affiliate's right to Software Assurance benefits under this agreement ends if it does not renew Software Assurance.
- f. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating there; (2) presents a hardship for Microsoft to continue operating the Online Service without modification, and/or (3) causes Microsoft to believe these terms or the Online Service may be in conflict with any such requirement or obligation. For example, Microsoft may modify or terminate an Online Service in connection with a government requirement that would cause Microsoft to be regulated as a telecommunications provider.
- g. **Program updates.** Microsoft may make a change to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments.

8. **Restrictions on use.**

Restrictions on use. Enrolled Affiliate must not

- a. separate and use the components of a Product on two or more computers, upgrade or downgrade components at different times, or transfer components separately, except as provided in the Product Use Rights;
- b. reverse engineer, decompile or disassemble any Product or Fix, except where applicable law permits it despite this limitation; or
- c. distribute, sublicense, rent, lease, lend, or host any Product or Fix except as permitted in the Product Use Rights or in a separate written agreement.

9. **Open Source Restrictions.**

Certain third party license terms require that computer code be generally (1) disclosed in source code form to third parties; (2) licensed to third parties for the purpose of making derivative works; or (3) redistributable to third parties at no charge (collectively, "Open Source License Terms"). Neither party may use, incorporate, modify, distribute, provide access to, or combine the computer code of the other with any other computer code or intellectual property (collectively, "Provide") in a manner that would subject the other's computer code to Open Source License Terms. Microsoft is not responsible for Customer's upload, use or distribution of Customer's code from the Online Services. Customer may upload code to an Online Service and allow third parties access to use or download Customer's code on the Online Service, provided that (1) such use is not restricted by a Supplemental Agreement or the Product Use Rights and (2) any Open Source License Terms apply solely to Customer and their uploaded code, and not to any code or Products provided by Microsoft. Each party warrants that it will not provide

the other party with, or give third parties access through the Online Services to, computer code that is governed by Open Source License Terms, except as described above.

10. Confidentiality.

To the extent permitted by applicable law, the terms and conditions of this agreement are confidential. Neither party will disclose such terms and conditions, or the substance of any discussions that led to them, to any third party other than Affiliates or agents, or to designated or prospective resellers who: (1) have a need to know such information in order to assist in carrying out this agreement; and (2) have been instructed that all such information is to be handled in strict confidence.

11. Warranties.

a. Limited warranty. Microsoft warrants that:

- (i) Online Services will perform in accordance with the applicable Service Level Agreement;
- (ii) Products other than Online Services will perform substantially as described in the applicable Microsoft user documentation; and

b. Limited warranty term. The limited warranty for:

- (i) Online Services is for the duration of Enrolled Affiliate's use of the Online Service, subject to the notice requirements in the applicable Service Level Agreement;
- (ii) Products other than Online Services is one year from the date Enrolled Affiliate first uses the Product, and

c. Limited warranty exclusions. This limited warranty is subject to the following limitations:

- (i) any implied warranties, guarantees or conditions not able to be disclaimed as a matter of law last for one year from the start of the limited warranty;
- (ii) the limited warranty does not cover problems caused by accident, abuse or use in a manner inconsistent with this agreement or the Product Use Rights, or resulting from events beyond Microsoft's reasonable control;
- (iii) the limited warranty does not apply to components of Products that Enrolled Affiliate is permitted to redistribute;
- (iv) the limited warranty does not apply to free, trial, pre-release, or beta products; and
- (v) the limited warranty does not apply to problems caused by the failure to meet minimum system requirements.

d. Remedies for breach of limited warranty. If Microsoft fails to meet any of the above limited warranties and Enrolled Affiliate notifies Microsoft within the warranty period, then Microsoft will:

- (i) for Online Services, provide the remedies identified in the Service Level Agreement for the affected Online Service;
- (ii) for Products other than Online Services, at its option either (1) return the price paid or (2) repair or replace the Product; and

These are Enrolled Affiliate's only remedies for breach of the limited warranty, unless other remedies are required to be provided under applicable law.

e. DISCLAIMER OF OTHER WARRANTIES. OTHER THAN THIS LIMITED WARRANTY, MICROSOFT PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS. MICROSOFT DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE OR NON-

INFRINGEMENT. THESE DISCLAIMERS WILL APPLY UNLESS APPLICABLE LAW DOES NOT PERMIT THEM.

12. *Defense of infringement and misappropriation claims.*

- a. **Microsoft's agreement to protect.** Microsoft will defend Enrolled Affiliate against any claims made by an unaffiliated third party that any Product or Fix that is made available by Microsoft for a fee infringes that party's patent, copyright, or trademark or makes intentional unlawful use of its Trade Secret. Microsoft will also pay the amount of any resulting adverse final judgment (or settlement to which Microsoft consents). This section provides Enrolled Affiliate's exclusive remedy for these claims.
- b. **Limitations on defense obligation.** Microsoft's obligations will not apply to the extent that the claim or award is based on:
- (i) Customer Data, code, or materials provided by Enrolled Affiliate as part of an Online Service;
 - (ii) Enrolled Affiliate's use of the Product or Fix after Microsoft notifies it to discontinue that use due to a third party claim;
 - (iii) Enrolled Affiliate's combination of the Product or Fix with a non-Microsoft product, data or business process;
 - (iv) damages attributable to the value of the use of a non-Microsoft product, data or business process;
 - (v) modifications that Enrolled Affiliate makes to the Product or Fix;
 - (vi) Enrolled Affiliate's redistribution of the Product or Fix to, or its use for the benefit of, any unaffiliated third party, except as expressly permitted by the Product Use Rights;
 - (vii) Enrolled Affiliate's use of Microsoft's trademark(s) without express written consent to do so; or
 - (viii) any Trade Secret claim, where Enrolled Affiliate acquires the Trade Secret (1) through improper means; (2) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (3) from a person (other than Microsoft or its Affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the Trade Secret.

Enrolled Affiliate will be responsible for any costs or damages that result from any of these actions.

c. **Specific rights and remedies in case of infringement.**

- (i) **Microsoft's rights in addressing possible infringement.** If Microsoft receives information concerning an infringement claim related to a Product or Fix, Microsoft may, at its expense and without obligation to do so, either:
- 1) procure for Enrolled Affiliate the right to continue to use the allegedly infringing Product or Fix; or
 - 2) modify the Product or Fix, or replace it with a functional equivalent, to make it non-infringing, in which case Enrolled Affiliate will immediately cease use of the allegedly infringing Product or Fix after receiving notice from Microsoft.
- (ii) **Enrolled Affiliate's specific remedy in case of injunction.** If, as a result of an infringement claim, Enrolled Affiliate's use of a Product or Fix that is made available by Microsoft for a fee is enjoined by a court of competent jurisdiction, Microsoft will, at its option:
- 1) procure the right to continue its use;

- 2) replace it with a functional equivalent;
 - 3) modify it to make it non-infringing; or
 - 4) refund the amount paid (or, for Online Services, refund any amounts paid in advance for unused Online Services) and terminate the license or right to access the infringing Product or Fix.
- d. **Enrolled Affiliate's Responsibility.** Enrolled Affiliate will be responsible for any costs or damages arising from any claims made by an unaffiliated third party that:
- (i) any Customer Data or non-Microsoft software Microsoft hosts on Enrolled Affiliate's behalf infringes the third party's patent, copyright, or trademark or makes intentional unlawful use of its Trade Secret; or
 - (ii) arise from Enrolled Affiliate's or its end user's violation of the Product Use Rights or these Additional Use Right and Restrictions.
- Enrolled Affiliate must pay the amount of any resulting adverse final judgment (or settlement to which Enrolled Affiliate consents).
- e. **Obligations of protected party.** Enrolled Affiliate must notify Microsoft promptly in writing of a claim subject to the subsection titled "Microsoft's agreement to protect" and Microsoft must notify Enrolled Affiliate promptly in writing of a claim subject to the subsection titled "Enrolled Affiliate's Responsibility." To the extent permitted by applicable law, where Enrolled Affiliate y invokes its right to protection it must (1) give Microsoft sole control over the defense or settlement; and (2) provide reasonable assistance in defending the claim. Microsoft will reimburse Enrolled Affiliate for reasonable out of pocket expenses that it incurs in providing assistance.

13. **Limitation of liability.**

- a. **Limitation on liability.** To the extent permitted by applicable law, the liability of Microsoft and Enrolled Affiliate, their respective Affiliates and contractors arising under this agreement is limited to direct damages up to (1) for Products other than Online Services, the amount Enrolled Affiliate was required to pay for the Product giving rise to that liability and (2) for Online Services, the amount Enrolled Affiliate was required to pay for the Online Service giving rise to that liability during the prior 12 months. In the case of Products provided free of charge, or code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to U.S. \$5,000. These limitations apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory. However, these monetary limitations will not apply to:
- (i) Microsoft's and Enrolled Affiliate's obligations under the section titled "Defense of infringement, misappropriation, and third party claims";
 - (ii) liability for damages caused by either party's gross negligence or willful misconduct, or that of its employees or its agents, and awarded by a court of final adjudication (provided that, in jurisdictions that do not recognize a legal distinction between "gross negligence" and "negligence," "gross negligence" as used in this subsection shall mean "recklessness");
 - (iii) liabilities arising out of any breach by either party of its obligations under the section entitled "Confidentiality", except that Microsoft's liability arising out of or in relation to Customer Data shall in all cases be limited to the amount Enrolled Affiliate paid for the Online Service giving rise to that liability during the prior 12 months;
 - (iv) liability for personal injury or death caused by either party's negligence, or that of its employees or agents, or for fraudulent misrepresentation; and

- (v) violation by either party of the other party's intellectual property rights.
- b. **EXCLUSION OF CERTAIN DAMAGES.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES, OR CONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATIONS (EXCEPT TO THE EXTENT THAT SUCH VIOLATION RELATES TO CUSTOMER DATA), THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR THE PARTIES' RESPECTIVE OBLIGATIONS IN THE SECTION TITLED "DEFENSE OF INFRINGEMENT, MISAPPROPRIATION, AND THIRD PARTY CLAIMS."
- c. **Affiliates and Contractors.** Neither Microsoft nor Enrolled Affiliate shall bring any action against the other's Affiliates or contractors in respect of any matter disclaimed on their behalf in this agreement.

14. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to the Products it and its Affiliates use or distribute. Microsoft has the right, to the extent permitted by applicable law, to verify compliance with the license terms for Products, at Microsoft's expense.
- b. **Verification process and limitations.** To verify compliance, Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 30 days notice, during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations. Enrolled Affiliate must promptly provide the independent auditor with any information it reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. As an alternative, Microsoft can require Enrolled Affiliate to complete Microsoft's self-audit questionnaire relating to the Products Enrolled Affiliate and any of Affiliates use or distribute, but reserve the right to use a verification process as set out above.

If Microsoft undertakes verification and does not find material unlicensed use (License shortage of 5% or more per Product), Microsoft will not undertake another verification of the same entity for at least one year. Microsoft and the independent auditors will use the information obtained in compliance verification only to enforce Microsoft's rights and to determine whether Enrolled Affiliate are in compliance with the license terms for the Products. By invoking the rights and procedures described above, Microsoft does not waive its rights to enforce the agreement or to protect Microsoft's intellectual property by any other means permitted by law.

- c. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use, Enrolled Affiliate must promptly direct its Reseller to order sufficient Licenses to cover such use. If material unlicensed use is found, Enrolled Affiliate must reimburse Microsoft for the costs Microsoft has incurred in verification and acquire the necessary additional Licenses at single retail license cost within 30 days.

15. Miscellaneous.

- a. **Notices to Microsoft.** Notices, authorizations, and requests in connection with this agreement must be sent by regular or overnight mail, express courier, or fax to the addresses

and numbers listed on the signature form and in this agreement. Notices will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery.

Copies should be sent to:

Microsoft Corporation
Legal and Corporate Affairs
Volume Licensing Group
One Microsoft Way
Redmond, WA 98052
USA

Via Facsimile: (425) 936-7329

Microsoft may provide information about upcoming Enrollment deadlines and Online Services in electronic form. Such information may be provided by email to contacts provided by Enrolled Affiliate under an Enrollment, or through a web site Microsoft identifies. Notice by email is given as of the transmission date.

- b. Assignment.** Either party may assign this agreement to an Affiliate only. Assignment will not relieve the assigning party of its obligations under the assigned agreement. If either party assigns this agreement, it must notify the other party of the assignment in writing.
- c. Severability.** If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the rest of the document will remain in effect and this agreement will be amended to give effect to the eliminated provision to the maximum extent possible.
- d. Waiver.** A waiver of any breach of this agreement is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party.
- e. Applicable law; Dispute resolution.** The terms of this agreement will be governed by the laws of Enrolled Affiliate's state, without giving effect to its conflict of laws. Disputes relating to this agreement will be subject to applicable dispute resolution laws of Enrolled Affiliate's state.
- f. This agreement is not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft software.
- g. Entire agreement.** This agreement, the Product List, all Enrollments under this agreement, and the Product Use Rights constitute the entire agreement concerning the subject matter and supersede any prior or contemporaneous communications. In the case of a conflict between any documents referenced in this agreement that is not expressly resolved in the documents, their terms will control in the following order: (1) these terms and conditions and the accompanying signature form; (2) an Enrollment; (3) the Product List; (4) the Product Use Rights; (5) any other documents; and (6) all orders submitted under this agreement.
- h. Survival.** Provisions regarding ownership and license rights, fees, Product Use Rights, restrictions on use, evidence of perpetual licenses, transfer of licenses, warranties, defense of infringement and misappropriation claims, Microsoft's and Customer's obligations to protect each other, limitations of liability, confidentiality, compliance verification, obligations on termination or expiration and the other provisions in this section entitled "Miscellaneous" will survive termination or expiration of this agreement and of any agreement in which they are incorporated.
- i. No transfer of ownership.** Microsoft does not transfer any ownership rights in any licensed Product.
- j. Free Products.** It is Microsoft's intent that the terms of this agreement and the Product Use Rights be in compliance with all applicable federal law and regulations. Any free Product

provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.

- k. Amending the agreement.** This agreement (except the Product List and the Product Use Rights) can be changed only by an amendment signed by both parties.
- l. Resellers and other third parties cannot bind Microsoft.** Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- m. Privacy.** Microsoft and Customer will comply with all applicable privacy and data protection laws and regulations. Customer may choose to provide personal information to Microsoft on behalf of third parties (including, Customer's contacts, resellers, distributors, and administrators) as part of this agreement. Customer represents and warrants that it has and will comply with any applicable laws to provide notices to or obtain permissions from any such individuals to allow sharing of their personal information with Microsoft for the purpose of allowing Microsoft or its agents to facilitate Customer's agreements and related services.

Customer consents to Microsoft's use of the contact information provided by Customer for purposes of administering its agreements, the business relationship and related services and with Microsoft's sharing of Customer's information with Customer's designated representatives, resellers, distributors, and administrators for such purposes, including allowing such individuals to update Customer's contact information on Customer's behalf. The personal information Customer provides in connection with this agreement will be used and protected according to the privacy statement available at <https://www.microsoft.com/licensing/servicecenter> to the maximum extent permitted by applicable law. Product-specific privacy commitments are described in the Product Use Rights.

- n. Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time
- o. Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this agreement and the Product Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this agreement for unlicensed use
- p. U.S. export jurisdiction.** Products and Fixes are subject to U.S. export jurisdiction. Customer will comply with all U.S. Export Administration Regulations and International Traffic in Arms Regulation requirements as well as all end-user, end-use, and destination restrictions issued by the U.S. and other governments applicable to this agreement. For additional information, see <http://www.microsoft.com/exporting>

SUPPLEMENT THREE

Microsoft Academic Agreement

Microsoft | Volume Licensing

Program Signature Form

MBA/MBSA number

Agreement number

SGN-

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Academic Select Agreement	X20-02396
Academic Select Volume Forecast Form	X20-00353
Academic Select Enrollment	X20-02416

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	Microsoft Affiliate
Name of Entity (must be legal entity name) * Department of Administrative Services	Microsoft Licensing, GP
Signature * <i>Hugh Quill / TET</i>	Signature <i>[Signature]</i>
Printed Name * <i>Hugh Quill</i>	Printed Name <i>Meslin Felleke</i>
Printed Title * <i>Director - DAS</i>	Printed Title <i>Program Manager, Compliance</i>
Signature Date * <i>11/22/10</i>	Signature Date <i>NOV 23 2010</i> <small>(date Microsoft Affiliate countersigns)</small>
Tax ID	Effective Date <i>11/23/2010</i> <small>(may be different than Microsoft's signature date)</small>

* Indicates required field

Optional 2nd Customer signature or Outsourcer Signature (if applicable)

Customer	Outsourcer
Name of Entity (must be legal entity name) *	Name of Entity (must be legal entity name) *
Signature * _____	Signature * _____
Printed Name *	Printed Name *
Printed Title *	Printed Title *
Signature Date *	Signature Date *

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Licensing, GP
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Prepared By: Kevin Jean-Louis kevin_jeanlouis@shi.com

Academic Select Enrollment

Enrollment number <i>Microsoft Affiliate to complete</i>	56973789	Earliest expiring previous Enrollment end date <i>Reseller to complete</i>	
Previous Enrollment, agreement, or auth number <i>(if renewing Software Assurance) Reseller to complete</i>		Qualifying Contract <i>Reseller to complete</i>	

This Enrollment must be attached to a signature form to be valid.

This Microsoft Academic Select Enrollment is entered into between the entities as of the effective date identified on the signature form.

This Enrollment consists of (1) this Enrollment and (2) the terms of the Academic Select Agreement identified on the signature form.

Enrolled Affiliate agrees to purchase Licenses equal to at least 750 points during the initial term of this Enrollment.

Effective date. If Enrolled Affiliate is renewing Software Assurance coverage from one or more previous Microsoft agreements, then the effective date of this Enrollment will be the day after the earliest expiration of such coverage. Otherwise, the effective date will be the date this Enrollment is processed by Microsoft.

Term. This Enrollment will expire on the date the Microsoft Academic Select Agreement identified on the signature form expires.

Qualifying systems Licenses. The operating system Licenses granted under this program are upgrade Licenses only. Full operating system Licenses are not available under this program. If Enrolled Affiliate selects the Windows Desktop Operating System Upgrade, all qualified desktops on which the Enrolled Affiliate runs the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at <http://microsoft.com/licensing/contracts>. Exclusions are subject to change when new versions of Windows are released.

In order to use a third party to reimage the Windows Operating System Upgrade, Enrolled Affiliate must certify that it has acquired qualifying operating system licenses. See the Product List for details.

1. **Contact information.**

Each party will notify the other in writing if any of the information in the following contact information page (s) changes. The asterisks (*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <https://www.licensing.microsoft.com>.

- a. **Primary contact information.** Enrolled Affiliate must identify an individual from inside its organization to serve as the primary contact. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others.

Name of entity (must be legal entity name)* Department of Administrative Services
Contact name* First Andrew **Last** Miller

Contact email address* Andrew.Miller@das.state.oh.us
Street address* 4200 Surface Road
City* Columbus **State/Province*** OH **Postal code*** 43228
Country* United States
Phone* 614-466-0206 **Fax**

- b. **Notices contact and online administrator.** This individual receives contractual notices. They are also the Online Administrator for the Volume Licensing Service Center and may grant online access to others. .

Same as primary contact
Name of entity* Department of Administrative Services
Contact name* First Andrew **Last** Miller
Contact email address* Andrew.Miller@das.state.oh.us
Street address* 4200 Surface Road
City* Columbus **State/Province*** OH **Postal code*** 43228
Country* United States
Phone* 614-466-0206 **Fax**

This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Institution.

- c. **Language preference.** Select the language for notices. English

- d. **Microsoft account manager:** Provide the Microsoft account manager contact for this Enrolled Affiliate.

Microsoft account manager name:
Microsoft account manager email address: @Microsoft.com

- e. If the Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. *Otherwise, the notices contact remains the default.*

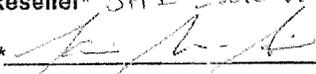
- Additional notices contact
- Software Assurance manager
- Subscription manager
- Online services manager
- Customer Support Manager (CSM) contact

- f. Is a purchase under this Enrollment being financed through MS Financing?
 Yes, No.

- g. **Reseller information.**

Reseller company name* SHI International Corp.
Street address (PO boxes will not be accepted)* 33 Knightsbridge Road
City* Piscataway **State/Province*** NJ **Postal code*** 08854
Country* United States
Contact name* Kevin Jean-Louis
Phone* 888-864-8888 **Fax**
Contact email address* kevin_jeanlouis@shi.com

The undersigned confirms that the information is correct.

Name of Reseller* SHE International Corp.
Signature* 
Printed name* Kevin Jean-Louis
Printed title* Microsoft Licensing Specialist
Date* 11/22/10

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with one another, Institution must choose a replacement Reseller. If Institution or Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other party in writing using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

2. Software Assurance Membership election.

To become a Software Assurance Member, Enrolled Affiliate must agree to purchase and maintain Software Assurance for all copies of all Products licensed under this Enrollment from at least one Product pool. For a description of benefits resulting from choosing one or more Product pools below and additional details regarding the Software Assurance Membership program, please consult with Enrolled Affiliate's Reseller or Microsoft account manager.

For each Product pool, mark "yes" or "no" to indicate whether Enrolled Affiliate is committing to purchase and maintain Software Assurance for all copies of all Products licensed from that pool under this Enrollment.

Product Pools	Yes	No
Applications		<input checked="" type="checkbox"/>
Systems		<input checked="" type="checkbox"/>
Servers		<input checked="" type="checkbox"/>

Note: If "Yes" is marked, all orders for Licenses must have Software Assurance.

3. Renewing Software Assurance.

If Enrolled Affiliate is renewing Software Assurance from multiple Academic Select programs or consolidating multiple previous Enrollments or agreements (including Open authorizations) into this Enrollment, please complete the multiple previous Enrollment form and attach it to this Enrollment. The earliest expiring previous Enrollment/agreement which contains Software Assurance is to be inserted on the Enrollment. If Enrolled Affiliate is only renewing one previous Enrollment/agreement, please insert that previous number on the Enrollment.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to: Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page (s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <http://www.licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* Department of Administrative Services
Contact name*: First Andrew Last Miller
Contact email address* Andrew.Miller@das.state.oh.us
Street address* 4200 Surface Road
City* Columbus **State/Province*** OH **Postal code*** 43228
Country* United States
Phone* 614-466-0206 **Fax**

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* Department of Administrative Services
Contact name*: First Andrew Last Miller
Contact email address* Andrew.Miller@das.state.oh.us
Street address* 4200 Surface Road
City* Columbus **State/Province*** OH **Postal code*** 43228
Country* United States
Phone* 614-466-0206 **Fax**

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. Subscriptions manager.

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* Department of Administrative Services
Contact name*: First Andrew Last Miller
Contact email address* Andrew.Miller@das.state.oh.us
Street address* 4200 Surface Road
City* Columbus **State/Province*** OH **Postal code*** 43228
Country* United States
Phone* 614-466-0206 **Fax**

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. Online services manager.

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity*
Contact name*: First Last
Contact email address*
Street address*
City* **State/Province*** **Postal code***
Country*
Phone* **Fax**

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. Customer Support Manager (CSM).

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity*
Contact name*: First Last
Contact email address*
Street address*
City* **State/Province*** **Postal code***
Country*
Phone* **Fax**

6. Primary contact information.

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* Department of Administrative Services
Contact name*: First Andrew Last Miller
Contact email address* Andrew.Miller@das.state.oh.us
Street address* 4200 Surface Road
City* Columbus **State/Province*** OH **Postal code*** 43228

Country* United States
Phone* 614-466-0206 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

Same as primary contact

Name of entity* Department of Administrative Services

Contact name* First Andrew **Last** Miller

Contact email address* Andrew.Miller@das.state.oh.us

Street address* 4200 Surface Road

City* Columbus **State/Province*** OH **Postal code*** 43228

Country* United States

Phone* 614-466-0206 **Fax**

This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Academic Select Agreement Volume Forecast Form

Previous Select Agreement
number
Reseller to complete

Previous Agreement
expiration date
Reseller to complete

This form is used to establish Institution's price level for each Product pool for the first year of the Academic Select agreement.

Please attach this form to a signature form when entering into a new Academic Select Agreement. **This form is only valid if attached to a signature form.**

Institution forecasts that during the initial term of this agreement, Institution and its Enrolled Affiliates will acquire at least 1,500 points in each of the Product pools marked below to qualify for academic level pricing within such Product pool(s). Each Product offering is assigned the number of points specified in the Product List. Note that academic pricing is established on a per pool basis. Institution does not need to acquire Products from all pools, but Institution must acquire at least 1,500 points in each pool for which Institution wishes to qualify for academic level pricing.

Mark below the Product pool(s) from which Institution and its Enrolled Affiliates expect to earn at least 1,500 points per pool during the initial term of the Agreement.

√	Product pool
<input checked="" type="checkbox"/>	Applications
<input checked="" type="checkbox"/>	Systems
<input checked="" type="checkbox"/>	Servers



Electronic Document Submission Authorization

By signing below, you agree that the accompanying contract documentation is authorized to be submitted to Microsoft Licensing, G.P. via electronic means.

Additionally, you acknowledge and consent that:

- The electronically submitted version of the contract document(s) is a legally binding arrangement, and that no other copies of the agreement will be processed.
- Upon execution by Microsoft, the contract documentation will be returned to you with an original Microsoft signature on your non-original signature document.

Customer Name	State of Ohio Department of Administrative Services
Customer Representative Signature	eb Hugh Quill / T&A
Customer Printed Name and Title	Hugh Quill - Director DAS
Date	11/22/10

Academic Select Agreement

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This Microsoft Academic Select Agreement is entered into between the entities identified on the signature form.

Effective date. The effective date of this agreement is the effective date of the first Enrollment or the date Microsoft accepts this agreement, whichever is earlier.

This agreement consists of: (1) these terms and conditions and the signature form, (2) the Product List, (3) the Product Use Rights applicable to Products licensed under this agreement, (4) any Enrollment entered into under this agreement, (5) any order submitted under this agreement, and (6) the eligibility criteria for the Academic Select License program at <http://www.microsoft.com/licensing/contracts> as of the effective date of this agreement.

Terms and Conditions

A Note on Section Summaries. Some sections of this agreement have a summary at the beginning. These summaries are intended for ease of reference and are not part of the agreement. If any summary conflicts with the section it is summarizing, the section of the agreement, and not the summary, controls.

1. *Definitions.*

In this agreement, the following definitions apply:

"Affiliate" means

- a. with regard to Institution,

- (i) for a non-public entity, any qualified educational user identified at <http://www.microsoft.com/licensing/contracts> that Institution owns and/or controls, that owns and/or controls Institution, or that is under common ownership and/or control with Institution; "ownership" means, for purposes of this definition, more than 50% ownership, and
- (ii) for a state or local government entity,
 - any other qualified educational user identified at <http://www.microsoft.com/licensing/contracts> as of the effective date of this agreement that is an agency, department, office, bureau, division, or other entity of the state or local government, and
 - any other qualified educational user expressly authorized by the laws of the state to purchase under state education contracts;

provided that Institution and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and

- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft;

"available" means, with respect to a Product, that Microsoft has made Licenses for that Product available for ordering under a particular licensing program;

"Enrolled Affiliate" means an entity that is either the Institution or any one of Institution's Affiliates that has entered into an Enrollment under this agreement;

"Enrollment" means the document that Enrolled Affiliate submits under this agreement to sign up for this program;

"Fix(es)" means Product fixes, modifications or enhancements or their derivatives that Microsoft either releases generally (such as Product service packs) or that Microsoft provides to Institution when performing service(s) to address a specific issue;

"Institution" means the entity that is a qualified educational user identified at <http://www.microsoft.com/licensing/contracts> as of the effective date of this agreement and that has entered into this agreement with Microsoft;

"License" means for any one of the Products identified in the Product List (including standard Licenses and upgrades for desktop operating systems) the right to run the version of the Product ordered;

"L&SA" means a License and Software Assurance for any Product ordered;

"Microsoft" means the Microsoft entity that has entered into this agreement or an Enrollment and its Affiliates, as appropriate;

"Product" means any product Microsoft makes available for license for a fee, including online services and other web based services;

"Product List" means, with respect to the Academic Select License program, the statement published by Microsoft from time to time on the World Wide Web at <http://www.microsoft.com/licensing/contracts> or at a successor site that Microsoft identifies, which identifies the Products that are or may be made available to qualified educational users (which availability may vary by region) and any Product-specific conditions or limitations on the acquisition of Licenses for the Product;

"Product Use Rights" means, with respect to any licensing program, the use rights for each Product and version published for that licensing program at <http://www.microsoft.com/licensing/contracts> or at a successor site;

"Reseller" means a large account Reseller authorized by Microsoft to resell Licenses under this program in an Enrolled Affiliate's region;

"run" or "use" means to copy, install, use, access, display, run, or otherwise interact with;

"Software Assurance" means an annuity offering that provides new version rights and other benefits for Products as described in the Product List; and

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

2. How the Academic Select License program works.

Summary: Under the Academic Select License program, Institution and its Affiliates can license Products at discount pricing based on the volume of Licenses they purchase. Enrolled Affiliates receive master copies of the Products and may make and run as many copies as they wish during the term of the Enrollment, as long as they place monthly orders for those copies through an authorized Reseller.

The Academic Select License program allows Enrolled Affiliates to license Microsoft Products at discount pricing based on the volume of its purchases made under this agreement. Institution and Institution's Affiliates can participate in this program by submitting one or more Enrollments under this agreement. Once enrolled, the Enrolled Affiliate will receive master copies of Products it intends to license and may run as many copies as it wishes during the term of its Enrollment, provided it places monthly orders for Licenses for those Products. Microsoft may refuse to accept an Enrollment if Microsoft has a business reason to do so. Product support is not included with the Licenses under this agreement.

For qualified educational users, only Enrolled Affiliates identified in an Enrollment will be liable for non-compliance with the terms of that Enrollment, including the terms of this agreement incorporated by reference in that Enrollment.

Choosing and maintaining a Reseller. Each Enrolled Affiliate must choose and maintain a Reseller authorized in the Enrolled Affiliate's region.

Online services. Online services are provided as subscription services and are subject to unique terms set forth in the Product Use Rights and the Product List.

3. How to establish price level.

Summary: In order for Institution to qualify for the academic price level in a particular Product pool, its Enrolled Affiliate's purchases in that pool, in the aggregate, must meet the minimum purchase requirement. Initial qualification for academic pricing in each pool is based on a purchase forecast provided by Institution.

- a. **Price level — minimum forecast.** Each Product offering is assigned a point value on the Product List and is assigned to one of the following pools: applications, systems, and servers. In order for Enrolled Affiliates to qualify for academic level pricing and be eligible to acquire Licenses from any particular pool under this agreement, Institution must select that pool on the attached Academic Select Volume Forecast Form and represent to Microsoft that Institution reasonably expects its Enrolled Affiliates, in the aggregate, to acquire from that pool, during the initial term of this agreement, Product Licenses with a total point value of at least 1500 points. Institution's price level will be used to determine the prices Microsoft will invoice each Enrolled Affiliate's Reseller for Product Licenses that Enrolled Affiliate orders.
- b. **Price level compliance.** On every anniversary of the effective date of this agreement, , Microsoft will review the total License acquisitions by all Enrolled Affiliates during the previous three years to ensure that the minimum point requirement (1500 per pool) has been met for each selected pool. For the first anniversary and second anniversary reviews, Microsoft will multiply Enrolled Affiliates' actual points earned for Licenses purchased under this agreement by 3 and 1.5, respectively, to derive a three-year License purchase history. If the actual points earned within a pool fall below the minimum point requirement, Enrolled Affiliates will no longer be allowed to acquire Licenses from that pool under this agreement.

4. License grant — what Enrolled Affiliates are licensed to run.

Summary: Enrolled Affiliates can run, for their own benefit, as many available Products, so long as they submit orders for such Licenses on a monthly basis. Enrolled Affiliates can use the latest versions of the Products or choose to use any earlier version.

Generally, use rights become permanent once the Enrollment term ends and Enrolled Affiliate has completed all payments. At that time, Enrolled Affiliate will have perpetual Licenses for the number of Licenses ordered during the applicable Enrollment term. In cases where the Enrollment is terminated prior to the end of the term, subsections titled "Early termination" and "Effect of Termination or Expiration" describe Enrolled Affiliate's rights.

The Enrolled Affiliate has the following rights during the term of its Enrollment. These rights apply to the Licenses obtained under an Enrollment and are not related to any order or fulfillment of media. The ability to run current or later versions of a Product licensed under this agreement could be affected by minimum system requirements or other factors (e.g. hardware or other software).

- a. **General.** At any time after the Enrollment effective date, each Enrolled Affiliate may run any available Products as it chooses, provided that it submits orders for all Licenses as required in the subsection titled "Placing orders."
- b. **Use by Affiliates.** The Enrolled Affiliate may sublicense the right to use the Products to any Affiliates covered under its Enrollment, but Affiliates may not sublicense these rights and their use must be consistent with the license terms contained in this agreement.
- c. **Prior version or different language version.** Each Enrolled Affiliate may run in place of any Product version it Licenses under this agreement a prior version or different language version if the same Product (so long as, in the case of different language versions, that different language version is available under the Academic Select License program).
- d. **When Licenses become perpetual.**
 - (i) **License only.** An Enrolled Affiliate's right to run copies of any Product for which it orders only a License is temporary until the Enrolled Affiliate has paid for that License in full. Thereafter, the Enrolled Affiliate will have a perpetual License to run the number of copies ordered in the version ordered.
 - (ii) **L&SA or Software Assurance.** An Enrolled Affiliate's right to run copies of any Product for which it orders L&SA or Software Assurance is temporary until:
 - the Enrolled Affiliate has paid all installments of the price for such coverage and the applicable Enrollment term during which such Product Licenses were ordered has expired or been renewed or
 - the Enrolled Affiliate is otherwise eligible for perpetual Licenses as provided in this agreement.Thereafter, the Enrolled Affiliate will have perpetual Licenses to run the Products ordered in the latest versions available as of the date of expiration or termination (or any prior version) for the number of copies ordered during the applicable Enrollment term.
 - (iii) **In cases of early termination.** In the case of early termination, as provided in the subsection titled "Early termination," an Enrolled Affiliate that chooses only to pay amounts due and payable as of the termination date will have perpetual Licenses only for the number of copies specified in the subsection titled "Effect of termination or expiration."
- e. **Perpetual Licenses through Software Assurance.** Any perpetual Licenses received through Software Assurance supersede and replace the underlying perpetual Licenses for which that Software Assurance coverage was ordered. All perpetual Licenses acquired

under this agreement remain subject to the terms of this agreement and the applicable Product Use Rights.

- f. **License confirmation.** This agreement, the applicable Enrollment, the Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of Licenses, together with proof of payment, will be the Enrolled Affiliate's evidence of all Licenses obtained under its Enrollment.
- g. **Benefits limited to qualified educational user.** Products licensed under this agreement may be used only by and for the benefit of a qualified educational user. Client Access Licenses that Enrolled Affiliates acquire solely to enable their students to access their servers are, for the purposes of this restriction, deemed to be used by and for the benefit of a qualified educational user. For each such student Client Access License the Enrolled Affiliate acquires, it does not need to acquire a separate Client Access License for the parent(s) or legal guardian(s) of the licensed student user. Licenses obtained under this agreement may not be transferred, sublicensed, rented, leased, or loaned to any person or entity that is not a qualified educational user.

5. ***How to know what Product Use Rights apply.***

Summary: Generally, Microsoft agrees to lock-in the Product Use Rights at the start of the Enrollment, for current versions, and on the date of first release, for new versions, so that any subsequent changes Microsoft makes to the Product Use Rights will not affect the Enrolled Affiliate. A special rule applies in the case of downgrades, as described below.

- a. **Product Use Rights.** Microsoft publishes Product Use Rights for each version of each Product.
 - (i) **Product Use Rights for current and future versions of Products.**

The Product Use Rights in effect on the effective date of an Enrollment will apply to the Enrolled Affiliate's use of then-current versions of each Product. For future versions, the Product Use Rights in effect when those future versions are first released will apply. In both cases, subsequent changes made by Microsoft to the Product Use Rights for a particular version will not apply to the Enrolled Affiliate's use of that version.
 - (ii) **Product Use Rights for earlier versions (downgrade).**

If Enrolled Affiliate runs an earlier version of a Product than the version that was current on the Enrollment effective date, the Product Use Rights for the version licensed, not the version being run, will apply. However, if the earlier version includes components that are not part of the licensed version, any Product Use Rights specific to those components will apply to the Enrolled Affiliate's use of those components.
- b. **Fixes.** Use of any Fixes is defined by the Product Use Rights for the affected Product or, if the Fix is not provided for a specific Product, any other use terms Microsoft provides. All Fixes are licensed, not sold.
- c. **Public qualified educational user.** In lieu of a public qualified educational user's obligation to indemnify Microsoft under various provisions of the Product Use Rights, the public qualified educational user will be responsible for any cost or damages arising from any claim to which their indemnity obligation would otherwise apply.
- d. **Alternative Product use rights — deploying Licenses in academic settings.** For each copy of Microsoft developer Products used in connection with a class or other educational program, the Enrolled Affiliate may, as an alternative to deploying the Product pursuant to the licensing model described in the Product Use Rights, either

- (i) permit an unlimited number of its student users to run the Product on a single computer or similar device, provided that all such users comply with all other terms of this agreement; or
 - (ii) if the Enrolled Affiliate has licensed multiple copies of the Product, then, at any time, its students or faculty may run as many copies of the Product as it has licensed copies, provided that those users comply with all other terms of this agreement. If the anticipated number of users of the Product will exceed the number of copies the Enrolled Affiliate has licensed, it must have a reasonable mechanism or process in place to ensure that the number of persons running the Product at any given point in time does not exceed the number of copies licensed.
- e. **Reservation of rights.** All rights not expressly granted are reserved by Microsoft.

6. **How to order Product Licenses.**

Summary: An Enrolled Affiliate must submit orders for all copies of Products that it or its Affiliates run under its Enrollment. Each Enrolled Affiliate must place orders through the Enrolled Affiliate's Reseller. There are limits on when Software Assurance can be ordered without an underlying License. In general, Software Assurance cannot be ordered without also ordering Licenses unless the Enrolled Affiliate is renewing unexpired Software Assurance coverage or the Product List otherwise expressly permits it.

- a. **Placing orders.** Each Enrolled Affiliate must submit orders for all copies of any Products it or its Affiliates run under its Enrollment. Orders must be submitted in the month in which those copies are first run. Unless the Enrolled Affiliate is eligible to order just Software Assurance as described below, each order must be for either a License or L&SA. Each Enrolled Affiliate must place orders through the Enrolled Affiliate's Reseller. Price and payment terms for all Licenses ordered will be determined by agreement between the Enrolled Affiliate and its chosen Reseller. When placing orders, an Enrolled Affiliate must specify the country or countries where the Enrolled Affiliate and its Affiliates will use the Licenses.
- b. **When is the Enrolled Affiliate eligible to order just Software Assurance?** An Enrolled Affiliate may order Software Assurance for copies of a Product, without the need to simultaneously order a new License for those copies, in each of the following circumstances:
 - (i) At the beginning of a new Enrollment, the Enrolled Affiliate may order Software Assurance for copies of Products for which the Enrolled Affiliate has previously obtained perpetual Licenses through Upgrade Advantage, Software Assurance, or any similar upgrade protection, so long as (1) the new Enrollment becomes effective no later than one day following the expiration of that upgrade protection, and (2) the Enrolled Affiliate places its Software Assurance order at the time it submits its new Enrollment to its Reseller.
 - (ii) During the term of its Enrollment an Enrolled Affiliate may be eligible to order Software Assurance under its Enrollment for copies of certain Products licensed through retail sources or from an original equipment manufacturer (OEM), provided that the Enrolled Affiliate places its order within the required time frame. The Product List identifies those Products that may be enrolled in Software Assurance and the applicable time frame for placing an order.
 - (iii) An Enrolled Affiliate may also order Software Assurance in any other circumstances expressly permitted in the Product List.
 - (iv) An Enrolled Affiliate may renew Software Assurance ordered under its Enrollment at the time it renews that Enrollment as described in the section titled "How to renew this agreement."

In all such cases, the Enrolled Affiliate must submit orders for Software Assurance for the remaining Enrollment term, if applicable.

- c. **Invoices and payments.** The prices at which Microsoft will invoice each Enrolled Affiliate's Reseller will be based upon the applicable price level under this agreement. For any orders for Software Assurance or L&SA, if the Enrolled Affiliate elects to spread its payments over the applicable Enrollment term rather than paying in a lump sum, it may make this election with its Reseller. In such cases, Microsoft will invoice the Enrolled Affiliate's Reseller in equal installments, the first installment upon receipt of the order and subsequent installments on each remaining anniversary of the effective date of this agreement occurring during the Enrollment term in which the order was placed. Any amounts for Licenses only (i.e., without accompanying Software Assurance) will be invoiced to the Enrolled Affiliate's Reseller in full upon receipt of the order.
- d. **How to confirm orders.** Microsoft will publish information about orders placed by each Enrolled Affiliate, including an electronic confirmation of each order on a password-protected site on the World Wide Web at <https://licensing.microsoft.com> or a successor site. Upon Microsoft's acceptance of this agreement and any Enrollment(s) entered into under this agreement, the contact identified for this purpose will be provided access to this site.

7. Making copies of Products and re-imaging rights.

Summary: Enrolled Affiliate can make as many copies as it needs. The copies must be complete and from master copies obtained from an authorized source. If Enrolled Affiliate uses third parties to make copies, Enrolled Affiliate is responsible for the actions of those third parties. Enrolled Affiliate can make a specified number of complimentary copies for training, evaluation, and back-up. In certain circumstances, Enrolled Affiliate can use the media that it obtains under this agreement to make copies of Products that it is licensing through another channel. Generally, this is only allowed where the Product, version, language, type, and components that are being copied are identical to those licensed through that other channel.

- a. **Copies necessary for internal deployment.** The Enrolled Affiliate may make as many copies of the Products as it needs to distribute them within its organization. Copies must be true and complete (including copyright and trademark notices) and be from master copies obtained from a Microsoft approved fulfillment source. The Enrolled Affiliate may use a third party to make these copies but the Enrolled Affiliate agrees that it will be responsible for that third party's actions. The Enrolled Affiliate agrees to use reasonable efforts to make its employees, agents, and any other individuals that it allows to use the Products aware that the Products are licensed from Microsoft and are subject to the terms of this agreement.
- b. **Copies for training, evaluation, and back-up.** The Enrolled Affiliate may (1) use up to 20 complimentary copies of any Product in a dedicated training facility on its premises, (2) use up to 10 complimentary copies of any Product for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product(s) is licensed (1) from an original equipment manufacturer (OEM), (2) as full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
 - (i) Separate Licenses must be owned from the source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.

- (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., upgrade or full License) must be identical to the Product type from the separate source.
- (iv) Any Product-specific requirements for re-imaging identified in the Product List.
- (v) Re-images made under this subsection remain subject to the terms and use rights provided with the License from the separate source. This subsection does not create or extend any warranty or support obligation.

8. Work at home Product use rights.

Summary: Generally, Enrolled Affiliate's faculty and staff users who are licensed to use Microsoft Office have the right, during the term of the Enrollment, to run one additional copy of that Product on another computer they own.

For each copy of Microsoft Office an Enrolled Affiliate licenses, the primary user (who may be any of its faculty, staff, or other employee users but not any student user who is not also an employee user) of the computer or similar device on or from which such Product is run may also run a second copy, during the term of this agreement for work-related purposes only from either a laptop or desktop computer that he or she owns or leases.

Enrolled Affiliates must make reasonable efforts to ensure that faculty, staff, or other employee users delete and remove such copies from the temporary memory (RAM) and permanent memory (e.g. hard disk) of their computers at the end of the term of this agreement.

9. Distributing media.

Summary: Media that Enrolled Affiliate distributes to its faculty and staff for work-at-home purposes and students under the select student licensing option must be acquired from a Microsoft-approved source. Enrolled Affiliate can also distribute Product to faculty and staff for work-at-home purposes and students as described below.

Access to media by Enrolled Affiliate's faculty and staff for work-at-home purposes must be restricted and regulated by Enrolled Affiliate. All media for Product distributed to Enrolled Affiliate's faculty and staff for work-at-home purposes must be acquired from a Microsoft approved fulfillment source, and such Product may be distributed to such users only in the following ways:

- a. if Enrolled Affiliate acquires media for work-at-home, Enrolled Affiliate may distribute one copy of such media directly to each authorized work-at-home user. Work-at-home media may contain Product activation features that limit the number of installations; Reseller can identify media and Product that contains Product activation features. Enrolled Affiliate can get details on ordering and distributing work-at-home media at <http://www.microsoft.com/education/studentmedia.mspx>;
- b. Enrolled Affiliate may use volume licensing media to electronically distribute copies via download from secure network server(s) or other storage device(s), provided Enrolled Affiliate controls the download to ensure that the number of permitted copies is not exceeded and that parties making the download are licensed to do so. Enrolled Affiliate may engage a Microsoft approved entity to electronically distribute Products on its behalf. If Enrolled Affiliate uses a third party entity Enrolled Affiliate must enter into a separate agreement with the entity selected to provide electronic software delivery that is no less protective of Microsoft rights than this agreement; or
- c. utilizing volume licensing media via (1) controlled download from Enrolled Affiliate's secure network server(s) or other storage device(s) or (2) manual installation by Enrolled Affiliate at a central location that Enrolled Affiliate controls.

10. *Redistribution of software updates to students.*

Summary: Enrolled Affiliate has limited rights to distribute software updates to students. If it does so, it must use one of the distribution methods and comply with the limitations described below. Enrolled Affiliate has obligations with regard to tracking and replacement of software updates that it distributes as described below. Microsoft disclaims all warranties and limits its liabilities arising out of software updates as described below. No support is provided for software updates under this agreement.

- a. **License Grant.** From time to time, Microsoft may make available to the general public additional or replacement code of any portion of Microsoft's licensed Products without a fee (software updates). Microsoft grants Enrolled Affiliate a limited, non-exclusive, royalty-free, non-assignable, non-transferable, revocable License to distribute the software updates to Enrolled Affiliate's students in accordance with the terms of this section. Enrolled Affiliate's students must use the software updates solely for their personal benefit in accordance with the end-user License Agreement with Microsoft (EULA) included with each software update.
- b. **Redistribution of software updates.** Enrolled Affiliate may redistribute software updates to its students
 - (i) by electronic means provided that Enrolled Affiliate's method of electronic distribution is adequately licensed and incorporates access control and security measures designed to
 - prevent modification of the software updates and
 - prevent access by the general public or, where available,
 - (ii) through acquiring authorized copies on fixed media from a fulfillment source approved by Microsoft.
- c. **Limitations.** Enrolled Affiliate may not (1) produce or replicate software updates onto CDs or other distributable storage media; (2) combine the software updates with other non-Microsoft software; (3) distribute any software updates as a stand-alone component via email attachment; (4) charge for the software updates, but Enrolled Affiliate may recover any reasonable costs incurred in providing the updates to its students; (5) remove, modify, or interfere with the EULA or the EULA acceptance functionality included by Microsoft with any software update; or (6) alter the software updates in any way. Microsoft is not responsible for any cost related to the acquisition, distribution or recall of the software updates.
- d. **Tracking and recall, replacement software updates.** Enrolled Affiliate must track the quantity and method of distribution of the software updates by means that will allow it to provide notice of a recall and offer replacements as provided in this subsection. Enrolled Affiliate agrees to stop redistributing software updates within 10 days of receipt of a notice of recall from Microsoft, and within 30 days of that notice, Enrolled Affiliate agrees to (1) return to Microsoft or destroy all copies of software updates in Enrolled Affiliate's possession and (2) notify Enrolled Affiliate's students of the recall by same or similar means in which they were notified of the availability of the software updates.

If Microsoft makes available to Enrolled Affiliate a replacement software update, Enrolled Affiliate agrees to make the replacement available to its students within 10 days of receipt in the same quantity and method of distribution as Enrolled Affiliate made the original software update available. Enrolled Affiliate's distribution of replacement software updates is subject to the same conditions and restrictions as software updates under this section.
- e. **No warranties, exclusion of indirect, special, incidental, consequential, and certain other damages.** Notwithstanding anything to the contrary in this agreement, and to the extent permitted by law, software updates that Enrolled Affiliate redistributes to its students are provided "as is" without any warranties. Institution and its Enrolled Affiliates acknowledge that the provisions of this paragraph with regard to the software updates are reasonable

having regard to, among other things, the fact that they are complex computer software and their performance will vary depending upon hardware, platform, and software interactions and configurations.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, OR INDIRECT DAMAGES THAT ARISE OUT OF OR ARE IN ANY WAY RELATED TO INSTITUTION'S REDISTRIBUTION OF THE SOFTWARE UPDATES TO INSTITUTION'S STUDENTS. FURTHERMORE, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SUCH DAMAGES BASED DIRECTLY OR INDIRECTLY UPON THE PROVISION OF SOFTWARE UPDATES OR UNAVAILABILITY OF SOFTWARE UPDATES — INCLUDING WITHOUT LIMITATION, DAMAGES DUE TO BUSINESS INTERRUPTION, LOSS OF PROFITS, REVENUE OR BUSINESS OPPORTUNITY, LOSS OF DATA AND THE LIKE, FAILURE TO MEET ANY DUTY, OR NEGLIGENCE.

- (i) **Limitation of Liability.** With respect to Enrolled Affiliate's redistribution of the software updates, the Limitation of Liability provisions of this agreement shall apply in those situations in which Institution or an Enrolled Affiliate has a right to claim damages or payment from Microsoft.
- (ii) **No Support.** Software updates that Enrolled Affiliate redistributes to its students are provided without any support obligation by Microsoft, including any benefits accruing from Software Assurance.

11. **Transferring and reassigning Licenses.**

Summary: Enrolled Affiliate can transfer Licenses to an Affiliate and to other qualified educational users in connection with a divestiture, merger, or consolidation, provided it gives notice to Microsoft. Enrolled Affiliate cannot transfer Licenses to third parties under other circumstances without Microsoft's prior consent. Transferees must agree to be bound by applicable terms. License transfers must be permanent. With certain exceptions, Software Assurance cannot be transferred. All versions of upgrades must be transferred together. Operating system Licenses must stay with the computer system on which they were first installed. Generally, Enrolled Affiliate can reassign Licenses internally from one user to another or from one desktop to another.

- a. **Transferring Licenses to Affiliates or other qualified educational users.** License transfers are not permitted, except as explicitly set forth in this Section.
 - (i) **Right to transfer.** Enrolled Affiliate may transfer fully-paid perpetual Licenses to (1) an Affiliate or (2) other qualified educational users in connection with a divestiture of an Affiliate or of an operating division of the Enrolled Affiliate or one of its Affiliates, a merger, or consolidation. To do so, the Enrolled Affiliate must complete a transfer notice form which can be obtained from <http://www.microsoft.com/licensing/contracts> and send the notice to Microsoft before the transfer. No License transfer will be valid unless the Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, the applicable Product Use Rights, use restrictions, limitations of liability, and the transfer restrictions described in this section. Any transfer not made in compliance with this section will be void, and Enrolled Affiliate must either return or destroy the licensed copies.
 - (ii) **Limitations.** Even in the event of a merger, consolidation or divestiture, the following types of transfers are not permitted:
 - Licenses on a short-term basis (90 days or less);
 - temporary rights to use Products;
 - Software Assurance coverage;

- perpetual Licenses for any version of any Product acquired through Software Assurance separate from the underlying perpetual Licenses for which that Software Assurance coverage was obtained;
- an upgrade License for a desktop operating system Product separate from the underlying desktop operating system License or from the computer system on which the Product is first installed;
- full version desktop operating system licenses, unless transferred with the sale of the device for which it operates; or
- any Software Assurance benefits or online services.

(iii) **No resale.** The resale of Licenses, including any transfer by an Institution or its Affiliate, with a primary purpose to enable the transfer of those Licenses to an unaffiliated third party is prohibited.

b. Internal reassignment of Licenses and Software Assurance.

(i) **For Products other than the desktop operating system.** For Products other than the desktop operating system, the Enrolled Affiliate may internally reassign Licenses to an Affiliate. However, the Enrolled Affiliate may not reassign Licenses on a short-term basis (90 days or less) or reassign Software Assurance or other upgrade coverage separate from the underlying License, except as provided otherwise in this agreement. The Enrolled Affiliate may not reassign desktop operating system Licenses from one computer to another.

(ii) **For desktop operating systems.** The Enrolled Affiliate may internally reassign Software Assurance coverage on desktop operating systems from the original computer to a replacement computer internally, so long as (1) the replacement computer is licensed to run the latest version of that operating system and (2) the Enrolled Affiliate removes any desktop operating system upgrades from the original computer.

12. Term and termination.

Summary: This agreement, and all Enrollments submitted under it, end 36 full calendar months from the effective date of this agreement, unless the agreement is terminated earlier. Generally, existing Enrollments may be terminated if either party breaches the agreement and does not cure the breach in the time allotted. Generally, Enrolled Affiliate must order Licenses for copies of Products it has been using but has not yet placed orders for, and pay for all Licenses in full.

a. **Term.** This agreement will remain in effect for 36 full calendar months following the agreement effective date unless it is terminated earlier as described below. All Enrollments entered into under this agreement will expire or terminate upon the expiration or termination of this agreement unless terminated earlier as described below.

b. **Termination for breach.** Either party to an Enrollment may terminate it if the other party materially breaches its obligations under this agreement, including the failure to uphold any obligation to submit orders or pay amounts owed. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days notice and opportunity to cure. If Microsoft gives such notice to an Enrolled Affiliate, Microsoft will give Institution a copy of that notice as well and Institution agrees to assist in attempting to resolve the breach. If the breach also affects other Enrollments and cannot be resolved between Institution and Microsoft within a reasonable period of time, Microsoft may also terminate this agreement and all other Enrollments under it. If an Enrolled Affiliate ceases to be Institution's Affiliate, Institution must promptly notify Microsoft of this fact, and Microsoft may terminate its Enrollment.

Microsoft may terminate this agreement and any Enrollment(s) immediately if Institution fails to continue to qualify as a qualified educational user as identified at <http://www.microsoft.com/licensing/contracts>.

If no orders are received under an Enrollment in a 12-month period, the Enrollment will be terminated 13 months after the effective date of the Enrollment.

- c. **Early termination.** If an Enrolled Affiliate terminates its Enrollment as a result of Microsoft's breach, or if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be Institution's Affiliate, then the Enrolled Affiliate will have the following options:
- (i) It may immediately pay the total remaining amount due, including all installments, in which case the Enrolled Affiliate will have perpetual Licenses for all copies of the Products it has ordered; or
 - (ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for (1) all copies of Products for which payment has been made in full and (2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in the term) for which payment has been made in installments that is proportional to the total of payments made versus total amount due if the early termination had not occurred.
- d. **Effect of termination or expiration.** Upon expiration or termination of this agreement or any Enrollment, the Enrolled Affiliate must order Licenses for all copies of Products it or its Affiliates have run under its Enrollment for which the Enrolled Affiliate has not previously submitted an order. Any and all unpaid payments or any order of any kind, including subscription services, remain due and payable. Except as provided in the subsection titled "Early termination," in the event of termination, all unpaid installments of the price for any Licenses will immediately become due and payable, and the Enrolled Affiliate will be entitled to perpetual Licenses only after all such payments have been made.

13. How to renew this agreement.

Summary: Microsoft will advise Institution of its licensing options at the expiration of the initial agreement term.

- a. **Renewal.** Microsoft will provide Institution with 60 days' prior written notice of expiration of the initial agreement. If Microsoft may make a change to this program that will make it necessary for Institution and Institution's Enrolled Affiliates to enter into new agreements.
- b. **Placing renewal orders for Software Assurance.** If an Enrolled Affiliate wishes to renew Software Assurance for any copies of Licenses ordered under its previous Enrollment, it must enter into a new agreement prior to or at the expiration of this previous agreement term. The new agreement term will start the day after the expiration date of the previous Enrollment term. Upon acceptance of the agreement, an Enrolled Affiliate will not be eligible to order Software Assurance coverage for any copies of any Products for which it obtained only a License without first acquiring L&SA.
- c. **Consequences of non-renewal.** If Institution elects not to enter into a new agreement, or if an Enrolled Affiliate elects not to renew Software Assurance coverage for any copies of any Product licensed under an Enrollment, and it otherwise allows Software Assurance for those copies to lapse, then the Enrolled Affiliate will not be permitted to order Software Assurance for those copies later without first acquiring L&SA.

14. **Restrictions on Use.**

Summary: This section describes several restrictions that apply generally to Enrolled Affiliate's use of any software Microsoft provides to Enrolled Affiliate (e.g., prohibitions on renting or hosting the software, or reverse engineering it).

Enrolled Affiliate must not:

- a. separate and use the components of a Product on two or more computers, upgrade or downgrade components at different times, or transfer components separately, except as provided in the Product Use Rights;
- b. reverse engineer, decompile or disassemble any Product or Fix, except where applicable law permits it despite this limitation; or
- c. distribute, sublicense, rent, lease, lend or host to or for third parties any Product or Fix, except as permitted in this agreement or in a separate written agreement.

15. **Confidentiality.**

Summary: Each party agrees not to disclose the terms of this agreement except as provided below. Feedback a party gives about the other party's products or services is not confidential and can be used by the receiving party.

To the extent permitted by applicable law, the terms and conditions of this agreement are confidential. Neither party will disclose such terms and conditions, or the substance of any discussions that led to them, to any third party other than Affiliates or agents, or to designated or prospective resellers who: (1) have a need to know such information in order to assist in carrying out this agreement; and (2) have been instructed that all such information is to be handled in strict confidence.

If one party provides suggestions for changes or improvements, or other feedback, to the other party about the other party's products or services, the party receiving the feedback may use it for any purpose without obligation of any kind, except that the receiving party will not disclose the source of feedback without the consent of the party providing it.

Neither party is required to restrict work assignments of representatives who have had access to confidential information. Neither party can control the incoming information the other will disclose to it in the course of working together, or what that party's representatives will remember, even without notes or other aids. Each party agrees that use of information in representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this agreement or Trade Secret law, and each party agrees to limit what it discloses to the other accordingly.

16. **Warranties.**

Summary: Microsoft warrants that its Products will work substantially as described in the accompanying documentation, subject to certain limitations. If not, Microsoft will provide replacement Product or a refund. Microsoft disclaims all other warranties.

- a. **Limited warranty.** Microsoft warrants that each version of a Product licensed by Institution will perform substantially as described in the applicable Microsoft user documentation. This warranty is subject to the following limitations:
 - (i) the warranty applies for one year from the date Institution first runs a copy of the Product;

- (ii) any implied warranties, guarantees, or conditions last only during the term of the limited warranty except where applicable law does not permit such a limitation;
 - (iii) the limited warranty does not cover problems caused by accident, abuse, or use of the products in a manner inconsistent with this agreement or the Product Use Rights or resulting from events beyond Microsoft's reasonable control;
 - (iv) the limited warranty does not apply to components of Products that Institution is permitted to redistribute;
 - (v) the limited warranty does not apply to problems caused by the failure to meet minimum system requirements; and
 - (vi) the limited warranty does not apply to free, trial, pre-release, or beta products.
- b. **Remedies for breach of limited warranty.** If Microsoft fails to meet any of the above limited warranties and Institution notifies Microsoft within the warranty period, then Microsoft will, at its option, either (1) return the price paid for the Product or (2) repair or replace the Product. These are Institution's only remedies for breach of the limited warranty unless other remedies are required to be provided under applicable law.
- c. **DISCLAIMER OF OTHER WARRANTIES. OTHER THAN THIS LIMITED WARRANTY, MICROSOFT PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS. MICROSOFT DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE OR NON-INFRINGEMENT. THESE DISCLAIMERS WILL APPLY UNLESS APPLICABLE LAW DOES NOT PERMIT THEM.**

17. Defense of infringement, misappropriation, and third party claims.

Summary: Microsoft agrees to defend Institution and its Affiliates against claims that Microsoft Product infringes someone else's intellectual property rights and pay any damages awarded by a court or in a settlement. There are a number of exceptions which limit Microsoft's obligations in cases where Institution or its Affiliates have contributed in some way to the claim. If something Institution or its Affiliates have done has caused the claim and Microsoft is damaged, Institution must reimburse Microsoft.

If Microsoft believes that it is necessary to avoid an infringement claim, Microsoft may replace or modify the Products Institution and its Affiliates are using. If someone enjoins Institution's use of a Product, Microsoft will, at its option, replace the Product, modify it to make it non-infringing, obtain the rights Institution needs to keep using it, or refund Institution's money.

- a. **Agreement to protect.** Microsoft will defend Institution and its Affiliates against any claims made by an unaffiliated third party that any Product or Fix infringes its patent, copyright or trademark, or makes intentional unlawful use of its Trade Secret. Microsoft will also pay the amount of any resulting adverse final judgment (or settlement to which Microsoft consents). This section provides the exclusive remedy for these claims.
- b. **What the Institution must do.** Microsoft must be notified promptly in writing of the claim and given sole control over its defense or settlement. Institution agrees to provide Microsoft with reasonable assistance in defending the claim, and Microsoft will reimburse Institution for reasonable out of pocket expenses incurred in providing that assistance.
- c. **Limitations on defense obligation.** Microsoft's obligations will not apply to the extent that the claim or adverse final judgment is based on:
 - (i) running of the Product or Fix after notice to discontinue running due to such a claim;
 - (ii) combining the Product or Fix with a non-Microsoft Product, data, or business process;

- (iii) damages attributable to the value of the use of a non-Microsoft product, data, or business process;
- (iv) altering the Product or Fix;
- (v) distribution of the Product or Fix to, or its use for the benefit of, any unaffiliated third party;
- (vi) use of Microsoft trademark(s) without express written consent to do so; or
- (vii) any Trade Secret claim, acquiring the Trade Secret or (1) through improper means, (2) under circumstances giving rise to a duty to maintain its secrecy or limit its use, or (3) from a person (other than Microsoft or its Affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the Trade Secret.

Institution will reimburse Microsoft for any costs or damages that result from these actions.

d. Specific rights and remedies in case of infringement.

- (i) **Microsoft's rights in addressing possible infringement.** If Microsoft receives information concerning an infringement claim related to the Product or a Fix, Microsoft may, at its expense and without obligation to do so, either
 - procure the right to continue to run the allegedly infringing Product or Fix, or
 - modify the Product or Fix or replace it with a functional equivalent to make it non-infringing, in which case running the allegedly infringing Product or Fix must be stopped immediately.
- (ii) **Institution's specific remedy in case of injunction.** If, as a result of an infringement claim, the use of the Product or a Fix is enjoined by a court of competent jurisdiction, Microsoft will, at its option, either
 - procure the right to continue its use, or
 - replace it with a functional equivalent, modify it to make it non-infringing, or
 - refund the amount paid and terminate the License for the infringing Product or Fix.

If any other type of third party claim is brought regarding Microsoft's intellectual property, Institution must notify Microsoft promptly in writing. Microsoft may, at its option, choose to treat these claims as being covered by this section. This section provides the exclusive remedy for third party infringement and trade secret misappropriation claims.

18. Limitation of liability.

Summary: Microsoft limits its and its contractors' liability to Institution and its Affiliates to the amount of money paid under this agreement to Microsoft for the Product or service giving rise to the claim. However, this limit does not apply to Microsoft's obligations under the section titled "Defense of infringement and misappropriation claims" or to damages Institution or Enrolled Affiliate incurs because of Microsoft's breach of its confidentiality obligations or because of Microsoft's gross negligence or willful misconduct.

Each party agrees that it will not be liable to the other for consequential, indirect, punitive, or special damages except those that result from a breach of confidentiality or from one party violating the other's intellectual property rights.

- a. **Limitation on liability.** To the extent permitted by applicable law, each party, its Affiliates and its contractors under this agreement shall be limited to direct damages up to the amount Institution was required to pay for the Product or services giving rise to that liability. In the case of free Product, services provided free of charge, or code that Institution or its Affiliates are authorized to redistribute to third parties without separate payment to Microsoft,

Microsoft's liability is limited to U.S.\$5,000. These limitations apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory. However, these limitations will not apply to:

- (i) Microsoft's obligations under the section titled "Defense of infringement, misappropriation, and third party claims";
 - (ii) liability for damages caused by either party's gross negligence or willful misconduct, or that of its employees or its agents and awarded by a court of final adjudication, or
 - (iii) liabilities arising out of any breach by either party of its obligations under section titled "Confidentiality";
 - (iv) liability for personal injury or death caused by either party's negligence or that of its employees or agents or for fraudulent misrepresentation; or
 - (v) violation by either party of the others party's intellectual property rights.
- b. **EXCLUSION OF CERTAIN DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES OR CONTRACTOR, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATIONS OR OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.**
- c. **Affiliates and contractors.** Neither Microsoft nor Institution shall bring any action against the other's Affiliates or contractors in respect of any matter which is disclaimed on their behalf in this Section. Each party will indemnify the other in the event of any breach of this provision.

19. **Verifying compliance.**

Summary: Generally, Microsoft has the right to review Institution's and its Enrolled Affiliates records or conduct an onsite audit through an independent auditor. Microsoft will pay for the costs of the audit unless it reveals a material noncompliance.

- a. **Right to verify compliance.** Institution and its Enrolled Affiliates must keep records relating to the Products it and its Affiliates use or distribute under any license agreement. Microsoft has the right to verify compliance with the agreement and licenses terms for the Products, at Microsoft's expense.
- b. **Verification process and limitations.** To verify compliance, Microsoft will engage an independent auditor. Verification will take place upon not fewer than 30 days notice, during normal business hours, and in a manner that does not interfere unreasonably with Institution's or its Enrolled Affiliates operations. Institution must promptly provide the independent auditor with any information it reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of licenses for Products Institution hosts, sublicense, or distributes to third parties. As an alternative, Microsoft will have the option to require Institution to complete Microsoft's self-audit questionnaire relating to the Products Institution and any of its Affiliates use under this agreement.

If Microsoft undertakes verification and does not find material unlicensed use (License shortage of 5% or more per Product), Microsoft will not undertake another verification of the same entity for at least one year. Microsoft and Microsoft's auditors will use the information

obtained in compliance verification only to enforce Microsoft's rights and to determine whether Institution and its Enrolled Affiliates are in compliance with the license terms for Products. By invoking the rights and procedures described above, Microsoft does not waive its rights to enforce this agreement or to protect its intellectual property by any other means permitted by law.

- c. **Remedies for noncompliance.** If verification or self-audit reveals any unlicensed use, the applicable Enrolled Affiliate(s) must promptly order sufficient Licenses to cover their use. If material unlicensed use is found, Institution must reimburse Microsoft for the costs Microsoft has incurred in verification and acquire the necessary additional Licenses as single retail Licenses within 30 days.

20. *Miscellaneous.*

- a. **Notices to Microsoft.** Notices, authorizations, and requests in connection with this agreement must be sent by regular or overnight mail, express courier, or fax to the addresses and numbers listed on the signature form and in this agreement. Notices will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery.

Copies should be sent to:
Microsoft Corporation Legal and Corporate Affairs Volume Licensing Group One Microsoft Way Redmond, WA 98052 USA Via Facsimile:(425) 936-7329

- b. **No transfer of ownership.** Microsoft does not transfer any ownership rights in any licensed Product. Microsoft reserves all rights not specifically granted. The Products are protected by copyright and other intellectual property rights laws and international treaties.
- c. **Severability.** If a court holds any provision of this agreement to be illegal, invalid, or unenforceable, the rest of the document will remain in full force and effect and this agreement will be amended to give effect to the portion of the agreement that was eliminated to the maximum extent possible.
- d. **Waiver.** A waiver of any breach of this agreement is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party.
- e. **Resellers and other third parties cannot bind Microsoft.** Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- f. **This agreement is not exclusive.** Institution is free to enter into agreements to license, use or promote non-Microsoft software or services.
- g. **Entire agreement.** The documents identified on the cover page of this agreement constitute the entire agreement concerning the subject matter and supersedes any prior or contemporaneous communications. In the case of a conflict between any documents identified in the first page that is not resolved expressly in the documents, their terms will control in the following order: (1) these terms and conditions and the signature form, (2) the Product List, (3) the Product Use Rights applicable to Products licensed under this agreement, (4) any Enrollment entered into under this agreement, and (5) any order submitted under this agreement.

- h. Assignment.** Assignment or transfer of this agreement or the rights or obligations must have Microsoft's prior written approval. Microsoft may transfer this agreement or its rights and obligations to one of Microsoft's affiliated companies.
- i. Survival.** Provisions regarding Product Use Rights, restrictions on use, transfer of Licenses, warranties, defense of infringement and misappropriation claims, limitations of liability, confidentiality, compliance verification, and obligations on termination or expiration will survive termination or expiration of this agreement or any subscription.
- j. Amending the agreement.** This agreement (except the Product List and the Product Use Rights) can be changed only by an amendment signed by both parties.
- k. Privacy.** Microsoft and Institution, and their Affiliates will comply with all applicable privacy and data protection laws and regulations. Institution and its Affiliates may choose to provide personal information to Microsoft on behalf of third parties (including Institution's or its Affiliates' contacts, resellers, distributors, and administrators) as part of this agreement. Institution represents and warrants that it and its Affiliates have and will comply with any applicable laws to provide notices to or obtain permissions from any such individuals to allow sharing of their personal information with Microsoft for the purposes of allowing Microsoft or its agents to facilitate Institution's and its Affiliates' agreements and related services. Institution consents to Microsoft's and its agents' use of the contact information provided by Institution for purpose of administering its agreements, the business relationship and related services and with Microsoft's sharing of Institution's and its Affiliates' information with Institution's designated representatives, resellers, distributors and administrators for such purposes, including allowing such individuals to update Institution's contact information on Institution's behalf. Any personal information Institution provides in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.
- l. Applicable currency.** Any payments made to Microsoft must be in the approved currency for the respective locale. For details, please see <http://www.microsoft.com/licensing/contracts>.
- m. Advisor fee.** Microsoft sometimes pays fees to Software Advisors or other third parties authorized by Microsoft. The fees are in exchange for their advisory services. The payment of fees depends upon several factors, including the type of agreement under which Enrolled Affiliate orders Licenses, which Licenses Enrolled Affiliate orders, and whether Institution chooses to use an advisor. The fee amounts increase with the size of the orders Institution placed under this agreement.
- n. Applicable law.** This agreement shall be interpreted in accordance with and governed by the laws of the state of Washington unless Institution is a public qualified educational user, in which event this agreement shall be interpreted in accordance with and governed by the laws of Institution's state, in either case without giving effect to conflicts of law provisions. This choice of law does not prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.
- o. U.S. Export jurisdiction.** Products, Fixes, and services deliverables are subject to U.S. export jurisdiction. Institution must comply with all applicable laws including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting>.
- p. Natural Disaster.** In the event of a natural disaster, Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.

Microsoft | Volume Licensing

Academic Select Signature Form

Agreement number 01567777 *File 12/17* SGN-

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

DIS67591

Microsoft to complete

This signature form and all contract documents identified in the table below are entered into between the institution and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Academic Select Agreement	X20-01386 (NEW)
Academic Select Enrollment	X20-01406 (NEW)
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
Volume Forecast Form	X20-00353 (NEW)
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Institution and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any website or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Institution	Microsoft Affiliate
Name of Entity * Ohio Department of Administrative Services	Microsoft Licensing, GP
Signature * <i>Hugh Quill / JT</i>	Signature <i>[Signature]</i>
Printed Name * <i>Hugh Quill</i>	Printed Name Mesfin Felleke
Printed Title * <i>Director</i>	Printed Title Program Manager, Compliance
Signature Date * <i>11/22/10</i>	Signature Date DEC 17 2010 <small>(date Microsoft affiliate countersign)</small>
Tax ID	Effective Date <i>12/11/2010</i> <small>(may be different than our signature date)</small>

* indicates required field

Optional 2nd Institution signature (if applicable)

Institution	
Name of Entity *	
Signature *	_____
Printed Name *	
Printed Title *	
Signature Date *	

If Institutions requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Institution, send it and the Contract Documents to Institution's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Institution will receive a confirmation copy.

Microsoft Licensing, GP
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Prepared By:

Academic Select Enrollment

6693380

Enrollment number <i>Microsoft Affiliate to complete</i>	01869477 <i>12/7</i>
Previous Enrollment, agreement, or auth number <i>(if renewing Software Assurance) Reseller to complete</i>	4474554

Earliest expiring previous
Enrollment end date
Reseller to complete

11/30/10

This Enrollment must be attached to a signature form to be valid.

This Microsoft Academic Select Enrollment is entered into between the entities as of the effective date identified on the signature form.

This Enrollment consists of (1) this Enrollment and (2) the terms of the Academic Select Agreement identified on the signature form.

Enrolled Affiliate agrees to purchase Licenses equal to at least 750 points during the initial term of this Enrollment.

Effective date. If Enrolled Affiliate is renewing Software Assurance coverage from one or more previous Microsoft agreements, then the effective date of this Enrollment will be the day after the earliest expiration of such coverage. Otherwise, the effective date will be the date this Enrollment is processed by Microsoft.

Term. This Enrollment will expire on the date the Microsoft Academic Select Agreement identified on the signature form expires.

Qualifying systems Licenses. The operating system Licenses granted under this program are upgrade Licenses only. *Full operating system Licenses are not available under this program.*

1. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <http://licensing.microsoft.com>.

- a. **Primary contact information:** An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change

Name of entity (must be legal entity name)* Ohio Department of Administrative Services
 Contact name* First Andrew, Last Miller
 Contact email address* Andrew.Miller@das.state.oh.us
 Street address* 4200 Surface Road
 City* Columbus State/Province* OH Postal code* 43228
 Country* USA
 Phone* 614-466-0206 Fax 614-728-7798

- b. **Notices contact and online administrator:** This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

Same as primary contact

Name of entity*

Contact name* First , Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Institution.

c. **Language preference:** Select the language for notices. English

d. **Microsoft account manager:** Provide the Microsoft account manager contact for this Enrolled Affiliate.

Microsoft account manager name:

Microsoft account manager email address:

e. If the Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. Otherwise, the notices contact remains the default.

- Additional notices contact
- Software Assurance manager
- Subscription manager
- Online services manager
- Customer Support Manager (CSM) contact

f. Is a purchase under this Enrollment being financed through MS Financing?
 Yes, No.

g. **Ship to delivery address:** If media election form is not completed, provide a ship to/download to location for applying sales tax.

Same as notices contact

Name of entity*

Contact name: First* Last*

Contact email address (required for online access)*

Street address (no PO boxes accepted)*

City* State/Province* Postal code*

Country*

Phone* Fax

County In City Limits? Estimated Tax Rate

h. **Reseller information**

Reseller company name* Dell Inc.

Street address (PO boxes will not be accepted)* ~~850 ASBURY DRIVE~~

City* ~~Buffalo Grove~~ State/Province* ~~IL~~ Postal code* ~~60089~~

Country* USA

Contact name* Rebecca Rumuly

Phone* 512-723-2753 Fax 512-283-0502

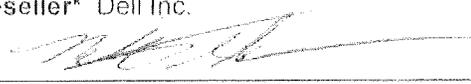
Contact email address* ~~rebecca_rumuly@dell.com~~

1 Dell Way
Round Rock, TX, 78681

Rumuly

US, MS, IL, Admin @ Dell.com

The undersigned confirms that the information is correct.

Name of Reseller*	Dell Inc.
Signature*	
Printed name*	Nathan Schrumm
Printed title*	Sr. Buyer Analyst
Date*	12/17/2010

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with one another, Institution must choose a replacement. If Institution intends to change the Reseller, it must notify Microsoft and the former Reseller in writing on a form provided at least 90 days prior to the date on which the change is to take effect. The change will take effect 90 days from the date of Institution's signature.

2. *Software Assurance Membership election.*

To become a Software Assurance Member, Enrolled Affiliate must agree to purchase and maintain Software Assurance for all copies of all Products licensed under this Enrollment from at least one Product pool. For a description of benefits resulting from choosing one or more Product pools below and additional details regarding the Software Assurance Membership program, please consult with Enrolled Affiliate's Reseller or Microsoft account manager.

For each Product pool, mark "yes" or "no" to indicate whether Enrolled Affiliate is committing to purchase and maintain Software Assurance for all copies of all Products licensed from that pool under this Enrollment.

<i>Product pools</i>	Yes	No
Applications	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Systems	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Servers	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note: If "Yes" is marked, all orders for Licenses must have Software Assurance.

3. *Renewing Software Assurance.*

If Enrolled Affiliate is renewing Software Assurance from multiple Academic Select programs or consolidating multiple previous Enrollments or agreements (including Open authorizations) into this Enrollment, please complete the multiple previous Enrollment form and attach it to this Enrollment. The earliest expiring previous Enrollment/agreement which contains Software Assurance is to be inserted on the Enrollment. If Enrolled Affiliate is only renewing one previous Enrollment/agreement, please insert that previous number on the Enrollment.

Academic Select Agreement Volume Forecast Form

Previous Select Agreement
number
Reseller to complete

01S69477

Previous Agreement
expiration date
Reseller to complete

11/30/10

This form is used to establish Institution's price level for each Product pool for the first year of the Academic Select agreement.

Please attach this form to a signature form when entering into a new Academic Select Agreement.
This form is only valid if attached to a signature form.

Institution forecasts that during the initial term of this agreement, Institution and its Enrolled Affiliates will acquire at least 1,500 points in each of the Product pools marked below to qualify for academic level pricing within such Product pool(s). Each Product offering is assigned the number of points specified in the Product List. Note that academic pricing is established on a per pool basis. Institution does not need to acquire Products from all pools, but Institution must acquire at least 1,500 points in each pool for which Institution wishes to qualify for academic level pricing.

Mark below the Product pool(s) from which Institution and its Enrolled Affiliates expect to earn at least 1,500 points per pool during the initial term of the Agreement.

√	Product pool
<input checked="" type="checkbox"/>	Applications
<input checked="" type="checkbox"/>	Systems
<input checked="" type="checkbox"/>	Servers

SUPPLEMENT FOUR

Establishment of Contractual
Agreement for Authorized Agent
Provision of MBE Microsoft Large
Account Reseller Partners for
Contract 0A1131

Supplement 4
Establishment of Contractual Agreement for Authorized
Agent Provision of MBE Microsoft Large Account Reseller
Partners for Contract 0A1131

This Agreement (“Agreement”) is between the State of Ohio (“the State”), through the Department of Administrative Services, and <CONTRACTOR>, an authorized agent on the Microsoft Large Account Reseller Partners Contract 0A1131. This Agreement contains additional contractual terms between the State and Contractor under the Microsoft Large Account Reseller Partners Contract 0A1131.

This Agreement establishes additional terms for the length of the Contract between the State and <CONTRACTOR> related to provision of Microsoft products for participating State Agencies. The term begins <CONTRACT EFFECTIVE DATE> through June 30, 2019.

Purchase Orders: Each participating State Agency with funds appropriated to cover their Microsoft products purchases will annually issue a purchase order in an amount equal to that Agency’s annual payment amount for the applicable fiscal year. Participating State Agencies will issue a purchase order preferably by no later than July 30th of each fiscal year, unless an extension is mutually agreed upon by both parties. Establishing a July 30th purchase order deadline allows for a maximum 30-day grace period for a participating State Agency to complete processes required to issue a purchase order at the beginning of each fiscal year. The participating State Agency’s purchase order must state that it is for Microsoft products at the rates listed in the Contract.

Payments. Each participating State Agency will promptly pay annual payments upon receipt of a proper invoice from <CONTRACTOR> in accordance with the terms and conditions contained in the Contract. The payment obligations hereunder of each participating State Agency are subject to the non-appropriation provisions in the Contract as well as all prerequisites therein for a payment obligation to be binding on the State.

Payment Instructions. Annual payments due under this Agreement will be payable to <CONTRACTOR> by electronic transfer only as follows:

Bank Name:
Bank Address:
ABA Routing:
Account#:
Type of Account:
Contact Number:

Annual Reconciliation: <CONTRACTOR> agrees that items that are taken out of service can be removed from Contract 0A1108, and that a credit will be issued for the remaining prorated

amount of services from the date that <CONTRACTOR> acknowledges receipt of the participating Agency's request to remove the item from service coverage. Any potential credits issued will not be used until the following yearly renewal, and will be limited to a credit with <CONTRACTOR> for Microsoft products.

Except as expressly modified in this Agreement, all of <CONTRACTOR> and the State's rights and obligations under the Contract remain unchanged. This Agreement will be deemed as fully executed upon signature of all referenced parties.

CONTRACTOR

STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES

By:

By: Robert Blair

Title: _____

Title: Director, Department of Administrative Services

Date: _____

Date: _____

SUPPLEMENTAL INFORMATION TRAILER

This page is the last page of supplemental information for this competitive document. If you received this trailer page, all supplemental information has been received.

Note: portions of the supplemental information provided may or may not contain page numbers. The total number of pages indicated on the cover page does not include the pages contained in this supplement.