

## STATE TERM CONTRACT

**THIS CONTRACT** (the "Contract") is between the State of Ohio ("State"), through its Department of Administrative Services, General Services Division, at 4200 Surface Road, Columbus, Ohio, 43228 and Lenovo (United States) Inc. ("Contractor"), with offices at 1009 Think Place, Morrisville, NC, 27516.

### BACKGROUND

The State recognizes that it is sometimes advantageous to do business with some manufacturers under a State term contract rather than through a competitive bidding or proposal process. In such cases, the State may enter into a contract with the manufacturer provided that the manufacturer offers its products and ancillary services at the same prices that the manufacturer offers those products and services to the US Government under the GSA's Multiple Award Schedule program or SmartBuy program. Or if the manufacturer has no contract under the GSA's Multiple Award Schedule program or SmartBuy program, the State will accept the pricing the manufacturer offers to its distributors. Further, if the manufacturer has no GSA Multiple Award Schedule or SmartBuy contract and no distributors, the State may accept the prices that the manufacturer offers to its most favored customers for each product or service.

The State also recognizes that some manufacturers work primarily through dealers for various reasons, including offering customers better support through dealers that have a local presence in a service area. Because of this, the State may sometimes agree to work directly with a manufacturer's dealers. However, if the Contractor is not the manufacturer of the products under this Contract, the Contractor must submit a letter from the manufacturer that assures the State that the Contractor is an authorized dealer in the manufacturer's products. The letter also must assure the State that the Contractor will have sufficient quantities of the offered products for the duration of the Contract to meet the State's needs under the Contract during the initial term and any extensions. Further, the letter must identify each of the manufacturer's product and service that the Contractor will supply under this Contract. The letter also must contain an assurance of the availability of repair services and spare parts for products covered by this Contract during the warranty period with commercially reasonable efforts for five years from the date of the product announcement. The dealer must submit the letter, signed by an authorized representative of the manufacturer, with the executed copies of this Contract.

This Contract establishes terms and conditions under which State agencies (including any board, instrumentality, commission, or other political body) and Ohio political subdivisions, such as counties, municipalities, and townships, may acquire the Contractor's products or services at the pricing identified below. This Contract, however, only permits such; it is not a requirements contract and does not obligate any State agency or political subdivision to acquire the Contractor's products or services.

### TERMS AND CONDITIONS

#### 1 - TERM

- 1.1 TERM.** This Contract is effective on the date the State's duly authorized representative executes it, as evidenced by the date appearing with the representative's signature, below. Unless this Contract is terminated or expires without renewal, it will remain in effect until the end of the State's current fiscal biennium, which is June 30, 2015. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before termination or limit the State's rights in such.

## 2 - PRICING AND PAYMENT

- 2.1 CERTIFICATION OF ACCURACY.** The Contractor certifies the prices it is offering in the State STS are based upon a competitively awarded WSCA contract. The Contractor further certifies that the above representations will apply and be true with respect to all future pricing information submitted to revise this Contract.
- 2.2 PRICE ADJUSTMENTS.** The Contractor has relied on its WSCA pricing and the State will be entitled to any price decreases that the Contractor offers to the WSCA participants for any of its products and services during the term of this Contract. The Contractor must notify the State of any reduction in its WSCA pricing within 30 days of its occurrence and immediately reduce the price of the affected products or services to the State under this Contract. Additionally, since the Contractor provides the State with List-Minus pricing, pricing reductions on the products the State purchase are automatically shared with the State at the time they are reflected in the list price. Pricing reviews are scheduled quarterly in this regard.
- 2.3 PRICELIST.** The Contractor's pricelist for the products and services that the Contractor may provide to the State under this Contract is attached as Exhibit I. For convenience, those products and services are called "Deliverables" in this Contract. The Contractor may not provide any other Deliverables under this Contract without a prior written amendment to this Contract that both the State and the Contractor have signed. Furthermore, the Contractor may not charge the State greater prices for these Deliverables than the prices on the Exhibit I. If Exhibit I contains or incorporates by reference any terms or conditions other than a description of the scope of license for software, a description of the Contractor's products and services, and the prices for those products and services, those terms or conditions are excluded from this Contract and are of no effect. Exhibit I is identified as the following pricelist:

### Lenovo State Terms Schedule

The Contractor will not sell to the State any notebook computers with less than a 1.60 GHz internal clock speed. Additionally, the Contractor will not sell to the State any PCs or servers using CPUs with less than a 3.0 GHz internal clock speed. Additionally, the Contractor will not sell to the State any term software licenses. And except in the case of operating systems licensed in conjunction with desktop PCs, notebook computers, PDAs, and similar personal computing devices that the OEM does not distribute without an operating system, the Contractor will not sell or license any Microsoft software to the State. If any of the foregoing items are listed in the Contractor's pricelist, they are deleted for purposes of this Contract.

- 2.4 Payment Due Date.** Payments will be due on the 30th day after the later of:
- (a) The date the State actually receives a proper invoice at the office designated in the applicable purchase order to receive it; or
  - (b) The date Product is delivered.

The date the State issues a warrant (the State's equivalent to a check) in payment of an invoice will be considered the date payment is made. Without diminishing the Contractor's right to timely payment, the payment will be overdue only if it is not received by the 30th day after the payment's due date. If the State has not issued payment by then, interest will begin to accrue under Ohio Revised Code (the "Code") § 126.30.

**2.5 Invoice Requirements.** The Contractor must submit an original invoice with three copies to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:

- (a) Name and address of the Contractor as designated in this Contract;
- (b) The Contractor's invoice remittance address as designated in this Contract;
- (c) The purchase order number authorizing the delivery of the Deliverables; and
- (d) A description of the Deliverables, including, as applicable, the time period, serial number, unit price, quantity, and total price of the Deliverables.

If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information. If an invoice does not meet this section's requirements, or if the Contractor fails to give proper notice of a price increase, the State will send the Contractor written notice. The State will send the notice, along with the improper invoice, to the Contractor's address designated for receipt of purchase orders within 15 days. The notice will contain a description of the defect or impropriety and any additional information the Contractor needs to correct the invoice. If such notification has been sent, the payment due date will be 30 days after the State receives a proper invoice and has accepted the Contractor's Deliverable. The State will send notice to Lenovo in accordance with Section 10.7 of this Agreement.

**2.6 OHIO PAYMENT CARD.** Participating State agencies issuing orders under this Contract may use the Ohio Payment Card. Such purchases may not exceed \$2,500 unless the Office of Budget and Management ("OBM") has authorized the agency to exceed this limit. If OBM increases the dollar limit for payment cards for all State agencies, the State will post notice of that on its Procurement Website. Participating State agencies are required to use the Ohio Payment Card in accordance with OBM's current guidelines for the Ohio Payment Card and the agency's approved plan filed with the OBM. The Contractor may process a payment in the payment card network only upon delivery and acceptance of the applicable Deliverables. For partial deliveries or performance, the Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the ordering agency. Upon completion of the delivery of remaining Deliverables, the Contractor may process a payment request in the payment card network for the remainder of the order. The Contractor should receive payment through its merchant bank within the time agreed upon between the Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transactions, which the Contractor may not pass on to the State.

**2.7 NON-APPROPRIATION OF FUNDS.** The State's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails to continue funding for any payments due hereunder, the order or orders under this Contract that are affected by the lack of funding will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments with respect to the affected order or orders.

**2.8 OBM CERTIFICATION.** This Contract is subject to Code § 126.07. Any orders under this Contract are void until the Director of the OBM certifies that there is a balance in the appropriation available to pay for the order.

**2.9 CONTROLLING BOARD AUTHORIZATION.** The State's obligations under this Contract are subject to the Ohio Controlling Board continuing to authorize the State's use of its term contracts program. If the Ohio Controlling Board fails to authorize or withdraws its authorization for this program, this Contract will terminate immediately, and the Contractor may not take any more orders under it.

**2.10 TRAVEL EXPENSES.** Any travel that the Contractor requires to perform its obligations under this Contract will be at the Contractor's expense. The State will pay for any additional travel that it requests only with prior written approval. The State will pay for all additional travel expenses that it requests in accordance with OBM's travel policy in Rule 126-1-02 of the Ohio Administrative Code (the "Administrative Code").

- 2.11 TAXES.** The State is exempt from all sales, use, excise, and property taxes and will not pay any such taxes. To the extent sales, use, excise, or any similar taxes are imposed on the Contractor in connection with any Deliverable, the Contractor must pay those taxes together with any interest and penalties not successfully disputed with the taxing authority.
- 2.12 OFFSET.** The State may set off any amounts the Contractor agrees it owes to the State under this or other contracts against any payments due from the State to the Contractor under this or any other contracts with the State. The State must submit its remittance with the appropriate credit authorization numbers it receives from Contractor.

### **3 - CONTRACT ADMINISTRATION**

- 3.1 DEALERS AND DISTRIBUTORS.** The State authorizes the Contractor to name one or more dealers to work with the State to purchase products described in the Lenovo State Terms Schedule. But if the Contractor decides to use any dealers, the Contractor must submit the name, principal business address, addresses for purchase orders and for payments, telephone number, and its federal tax identification number. The Contractor also must submit a completed W9 form for each dealer it wishes to name under this section. The Contractor's submission must be on its official letterhead, signed by an authorized representative, and addressed to the Deputy State Chief Information Officer, Office of Information Technology.
- In doing so, the Contractor warrants that:

- (a) The Contractor has provided the dealer with a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing, to be bound by the terms and conditions in this Contract.
- (b) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.
- (c) The Contractor will remain liable under this Contract for the services of dealers it authorizes to work with the State, as evidenced by a Dealer Authorization letter and Distributor acceptance letter of the kind shown in Exhibit V, and will remedy any breach of the dealer under this Contract.
- (d) Payments under this Contract for the services of any dealer may be made directly to that dealer, and the Contractor will look solely to the dealer for any payments due to the Contractor once the State has paid the dealer.
- (e) Reserved.

If the Contractor wants to designate a dealer that will not receive payments (a "distributor"), the Contractor may do so by identifying the person or organization as a distributor in the authorizing letter. In such cases, information regarding taxpayer identification and payment addressing may be omitted, as may the distributor's W9 form. All other requirements and obligations for designating a dealer apply to designating a distributor.

The State strongly encourages the participation of small and disadvantaged businesses in its contracting programs and has created a certification program to Encourage Diversity Growth and Equity (EDGE) in State contracting. State agencies are instructed to include in their procurements such participation, including through the use of State Term Schedule contracts that are either held by EDGE businesses or that offer the opportunity to work with EDGE dealers or distributors.

- 3.2 AUDITS.** During the term of this Contract and for three years after termination, on reasonable notice and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Deliverables and to the pricing representations that the Contractor has made to acquire this Contract. This audit right also will apply to the State's duly authorized representatives and any organization providing funding for any Deliverable. Unless it is impracticable to do so, all records related to this Contract must be kept in a single location, either at the Contractor's principle place of business or the facilities where the Contractor substantially performed under this Contract. If any audit reveals any material misrepresentation or overcharge to the State, the State will be entitled to recover its damages.

**3.3 INSURANCE.** The Contractor must provide the following insurance coverage at its own expense throughout the term of this Contract:

- a. Workers' compensation insurance, as required by Ohio law, and if some work will be done outside Ohio, the laws of the appropriate states where work will be done. The Contractor also must maintain employer's liability insurance with at least a \$1,000,000.00 limit.
- b. Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, to the extent its interest in this Contract appears. The policy also must be endorsed to include a waiver of subrogation. At a minimum, the limits of the insurance must be:

- \$ 2,000,000 General Aggregate
- \$ 2,000,000 Products/Completed Operations Aggregate
- \$ 1,000,000 Per Occurrence Limit

The Contractor's Commercial General Liability must be primary over any other insurance coverage.

- c. Commercial Automobile Liability insurance with a combined single limit of \$1,000,000
- d. Excess Liability, umbrella insurance form, applying excess of primary to commercial general liability, commercial automobile liability and employer's liability insurance shall be provided with minimum limits of five million dollars (\$5,000,000) per occurrence, five million dollars (\$5,000,000) general aggregate and five million dollars (\$5,000,000) products/completed operations.

All certificates must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an "A-" rating by A.M.

**3.4 CONTRACT COMPLIANCE.** Any State agency that uses this Contract will be responsible for the administration of this Contract with respect to the orders that it places and may monitor the Contractor's performance and compliance with this Contract. If an agency becomes aware of any noncompliance with the terms of this Contract or the specifications of an order, the agency may document the noncompliance and give the Contractor written notice of the noncompliance for immediate correction. If the Contractor fails to cure the noncompliance, the agency may notify the State through the Department of Administrative Services, Office of State Purchasing, by executing a Complaint to Vendor form to help resolve the issue. Should the State determine that the form identifies an uncured breach of this Contract, the State may terminate this Contract and seek such other remedies as may be available to it.

**3.5 POLITICAL SUBDIVISIONS.** Ohio political subdivisions, such as Ohio cities, counties, and townships ("Political Subdivisions"), may rely on this Contract. Whenever a Political Subdivision relies on this Contract to issue a purchase order, the Political Subdivision will step into the shoes of the State under this Contract for purposes of its order, and, as to the Political Subdivision's order, this Contract will be between the Contractor and the Political Subdivision. The Contractor must look solely to the Political Subdivision for performance, including but not limited to payment, and must hold the State harmless with regard to such orders and the Political Subdivision's performance. But the State will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an order from a Political Subdivision. Nothing in this Contract requires the Contractor to accept an order from a Political Subdivision, if the Contractor reasonably believes that the Political Subdivision is or will be unable to perform its obligations in relation to that order.

**3.6 RECALLS and Seized/Embargoed Deliverables** If a Deliverable is subject to a recall action by a government agency, the Contractor must notify the State, through the Department of Administrative Services, Office of State Purchasing, as well as all agencies that have ordered the Deliverable. The Contractor shall issue the notification as soon as it is available for release from the government agency. At the option of the Contractor, the Deliverable will be repaired or replaced. If a Deliverable

is the subject of a seizure or embargo by a government entity and such action will delay delivery to the State for 30 days the State may cancel the applicable purchase orders.

**3.7 TERMINATION.** The State may terminate this Contract or any order under this Contract if the Contractor defaults in meeting its obligations and fails to timely cure its default. The State also may terminate this Contract or any order under it if a petition in bankruptcy is filed by or against the Contractor and not dismissed within 60 days. And the State may terminate this Contract or any order under it if the Contractor violates any law or regulation while performing under this Contract or if it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In all of the foregoing cases, the termination will be for cause.

On written notice, the Contractor will have 30 days to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within 30 days after written notice or if the breach is not one that is curable, the State will have the right to terminate this Contract, the applicable orders, or both immediately upon written notice to the Contractor. Some provisions of this Contract may provide for a shorter cure period than 30 days or for no cure period at all. Those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

The State also may terminate this Contract in the case of breaches that are cured within 30 days but are persistent. "Persistent" in this context means that the State has notified the Contractor in writing of

the Contractor's failure to meet any of its obligations two times. After the second such notice, the State may terminate this Contract without a cure period if the Contractor again fails to meet any obligation. The three defaults do not have to relate to the same obligation or type of failure.

The State also may terminate this Contract or any order under this Contract for its convenience and without cause. And the State may terminate this Contract or any order under it if the Ohio General Assembly fails to appropriate funds for any order under this Contract. Further, if a third party is providing funding for an order, the State also may terminate this Contract or any order under it should that third party fail to release any funds related to this Contract or an order under it.

Any notice of termination will be effective as soon as the Contractor receives it. On receipt of the notice of termination, the Contractor will promptly cease all work on any Deliverables affected by the termination and take all steps necessary to minimize any costs the Contractor will incur related to the affected orders. The Contractor also must immediately prepare a report and deliver it to the State. The report must detail all open orders at the time of termination.

If the Contractor fails to cure its default as described above, State may terminate the applicable order(s) for cause. In such event, it will be entitled to cover for the affected orders by using another vendor or vendors on such commercially reasonable terms and conditions as it and the covering vendor(s) may agree. The Contractor's liability to the State for all costs related to covering for the affected orders shall be limited to the difference in price between products which were to be purchased from Contractor and the substitute products purchased from any other vendor(s).

If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any Deliverable that the Contractor has shipped before the termination.

Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only once the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount the State determines that it owes the Contractor.

**3.8 EXCUSABLE DELAY.** Neither party will be liable for any delay in its performance under this Contract that arises from causes beyond its reasonable control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. For any such excusable delay, the date of performance or delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it then is taking or will take to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the party has not taken commercially reasonable steps to mitigate or avoid the delay.

**3.9 INDEPENDENT STATUS.** The parties will be acting as independent entities. The partners, employees, officers, directors, and agents of one party may only act in the capacity of representatives of that party and not as employees, officers, directors, or agents of the other party and will not be deemed as such for any purpose. Each party assumes full responsibility for the actions of its partners, employees, officers, directors, and agents while performing under this Contract and will be solely responsible for paying those people. Additionally, each party will be solely responsible for withholding and paying social security and income taxes, making workers' compensation contributions, paying disability benefits, and providing fringe benefits, if any, for its partners, employees, officers, directors, and agents, and neither party may legally bind the other party in any manner.

**3.10 LOCATION OF SERVICES AND DATA.** As part of this Contract, the Contractor must disclose the following:

- (a) All locations where any services will be performed;
- (b) All locations where any State data applicable to the Contract will be maintained or made available; and
- (c) The principal place of business for the Contractor and all its subcontractors.

The Contractor may not change any location where any services are performed to a location outside the country of the original location or change any location where the data is maintained or made available to any other location outside the country of the original location without prior written approval of the State, which the State will not be obligated to provide.

#### **4 - DELIVERY AND ACCEPTANCE**

**4.1 ACCEPTANCE.** The State will have up to 30 days from date of delivery to reject Deliverables for any of the following reasons: (i) unit is not operable at power-up or following initial burn-in period; (ii) unit fails because of factory-configured hardware, software, or firmware; (iii) unit is incomplete or missing items or components; (iv) unit is incorrectly configured by Contractor; (v) unit received is not as ordered accordingly to the Purchase Order; or (vi) unit is received by State in damaged condition. State shall notify Contractor of any such rejection within thirty (30) days after receipt of the Product. Upon Contractor's request, State shall return any rejected Product in accordance with Contractor's shipping instructions and at Contractor's expense. State shall not be obligated to pay any purchase price or shipping costs for any Products rejected and returned to Contractor in accordance with this Section. Any Deliverable not rejected within 30 days of delivery shall be assumed accepted.

**4.2 TITLE AND RISK OF LOSS.** Title to any Hardware Deliverable will pass to the State only on delivery at the State's facilities of the Deliverable, and all risk of loss will remain with the Contractor until delivery to the State.

**4.3 DELIVERIES.** The Contractor must make all deliveries F.O.B. destination.

#### **5 - INTELLECTUAL PROPERTY**

**5.1 COMMERCIAL MATERIAL.** As used in this section, "Commercial Material" means anything that the Contractor or a third party has developed at private expense and that is commercially available in the marketplace, subject to intellectual property rights, and readily susceptible to copying through duplication on magnetic media, paper, or other media. Examples include the written reports, books, pictures, videos, movies, computer programs, source code, and documentation.

Any Commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in an Exhibit to this Contract, if that scope of license is different than the scope of license contained in this section for Commercial Materials.

Except for Commercial Material that is software ("Commercial Software"), if the Commercial Material is copyrighted and published material, then the State will have the rights permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material is patented, then the State will have the rights permitted under the federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

For Commercial Software, the State will have the rights as provided by the applicable license for Commercial Software (for example, Microsoft Windows operating system), that may include:

- (1) Use and copy the Commercial Software for use in or with the computer or computers for which it was acquired, including use at any State installation to which such computer or computers may be transferred;
- (2) Use or copy the Commercial Software for use with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;
- (3) Reproduce the Commercial Software for archival, image management, and backup purposes;
- (4) Modify, adapt, and combine the Commercial Software with other computer software, provided that the modified, combined, and adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions on use;
- (5) Disclose to and reproduce the Commercial Software for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions on use; and
- (6) Use or copy the Commercial Software for use with a replacement computer.

If the Contractor provides greater license rights in an item included in Exhibit II to its general customer base for the Software's list price, those additional license rights also will be provided to the State without additional cost or obligation. No license description may reduce the rights in items 1 through 6 above; it may only define the extent of use, if the use is other than a CPU license.

The State will treat any Commercial Software as Confidential Information, in accordance with the requirements of the Confidential Information section of this Contract, if the Commercial Software is clearly and conspicuously labeled as confidential or secret.

The State and the Contractor acknowledge that there are terms and conditions included in the Software License Agreements (attached as Exhibit II under this State Term Contract) that may be in conflict with the State Term Contract Terms and Conditions (Section 5.1). The Contractor agrees that the Terms and Conditions of the State Term Contract (Section 5.1) will supersede the terms and conditions of such software license agreement and that in the event of any conflicts, the terms and conditions of the State Term Contract (Section 5.1) will prevail. The Contractor agrees that it will be responsible for resolving any disputes with the Software License provider for any reason including any disputes that arise because of the difference in the State Term Contract Terms and Conditions (Section 5.1) and the Software License Agreement for Supplier branded Software.

**5.2 CUSTOM DELIVERABLES.** All custom work done by the Contractor and covered by this Contract will belong to the State, with all rights, title, and interest in all intellectual property that comes into existence through the Contractor's work under this Contract being assigned to the State. Additionally, the Contractor waives any shop rights, author rights, and similar retained interests in any such custom developed materials. The Contractor must provide the State with all assistance reasonably needed to vest such rights of ownership in the State. However, the Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials").

The Contractor grants the State a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, sell, and otherwise distribute all Pre-existing Materials that are incorporated in any custom-developed Deliverable. The Contractor may not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing materials in a custom Deliverable, the Contractor must disclose that desire to the State and obtain written approval from the State for doing so in advance. On the request of the Contractor, the State will incorporate any proprietary notice that Contractor may reasonably want for any Pre-existing Materials included in a custom Deliverable in all copies the State makes of that Deliverable.

Subject to the limitations and obligations of the State with respect to Pre-existing Materials, the State may make all custom Deliverables available to the general public without any proprietary notices of any kind.

**5.3 CONFIDENTIALITY.** The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor must use commercially reasonable efforts to treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. The Contractor may not disclose any Confidential Information to third parties and must use it solely to perform under this Contract.

If any Deliverables contain data, documentation, or other written information that is confidential in nature and properly labeled as such, then it also will be Confidential Information for purposes of this section. The State will keep all such Confidential Information in confidence and will not use it other than as authorized under this Contract. Nor will the State disclose any such Confidential Information to any third party without first obligating the third party to maintain the secrecy of the Confidential Information.

If one party discloses Confidential Information ("Disclosing Party") to the other party to this Contract ("Receiving Party"), the Receiving Party's obligation to maintain the confidentiality of the Confidential Information will not apply where such:

- (1) Was already in the possession of the Receiving Party without an obligation of confidence;
- (2) Is independently developed by the Receiving Party, provided documentary evidence exists to support the independent development;
- (3) Except as provided in the next paragraph, is or becomes publicly available without a breach of this Contract;
- (4) Is rightfully received by the Receiving Party from a third party without an obligation of confidence;
- (5) Is disclosed by the Receiving Party with the written consent of the Disclosing Party; or
- (6) Is released under a valid order of a court or governmental agency, provided that the Receiving Party:
  - (a) Notifies the Disclosing Party of the order immediately upon receipt of it; and
  - (b) Makes a reasonable effort to obtain a protective order from the issuing court or agency limiting the disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

Except for Confidential Information that the Contractor delivers to the State and that is part of a Deliverable or necessary for the proper use or maintenance of a Deliverable, the Receiving Party must return or destroy all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

The disclosure of the Confidential Information of the Disclosing Party in a manner inconsistent with the terms of this provision may cause the Disclosing Party irreparable damage for which remedies other than injunctive relief may be inadequate, and each Receiving Party agrees that in the event of a breach of the Receiving Party's obligations hereunder, the Disclosing Party will be entitled to seek temporary and permanent injunctive relief to enforce the provisions of this Contract without the necessity of proving actual damages. However, provision does not diminish or alter any right to claim and recover damages.

- 5.4 **USE OF NAME.** The Contractor may not publicize that it is doing business with the State or use this Contract or the Contractor's relationship with the State as a marketing or sales tool, unless the State agrees otherwise in writing. The State has no obligation to agree to any such advertising, publicity, sales, or marketing activities.

## 6 – TRANSACTION REPORTING

- 6.1 **Contractor's SALES REPORT.** The Contractor agrees to report the quarterly dollar value (in US currency rounded to the nearest whole dollar) of the sales under this Contract each calendar quarter (i.e., January-March, April-June, July-September and October-December). The dollar value of the sales reported must equal the price paid by all State agencies and Political Subdivisions for Deliverables under this Contract during the reporting period.

The Contractor must report the quarterly dollar value of sales to the State via the Internet using the Web form at the Department of Administrative Services, OIT vendor portal, <https://cm.ohio.gov>. If no sales occur, the Contractor must show zero sales on the report. The report must be submitted 30 days after the completion of the reporting period.

The Contractor also must submit a closeout report within 120 days after the expiration of this Contract. The Contract expires on the physical completion of the last, outstanding task or delivery order of the Contract. The closeout report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all Contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero sales in the closeout report.

If the Contractor fails to submit any sales report in a timely manner or falsifies any sales report, the State may terminate this Contract for cause.

- 6.2 **Contractor's REVENUE SHARE.** The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the prices reflected on Exhibit I and reflected in the total amount charged to ordering activities, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the revenue share.

The Contractor must remit any amount due as the result of a quarterly or closeout report at the time the quarterly or closeout report is submitted to the Department of Administrative Services, Office of State Purchasing. The Contractor also must pay the revenue share by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the applicable State Term Contract Number, total report amount, and reporting period covered.

The Contractor must make each check payable to "Treasurer, State of Ohio", and forward it to the following address:

Department of Administrative Services  
GSD Business Office  
4200 Surface Road  
Columbus, OH 43228

If the full amount of the revenue share is not paid within 30 days after the end of the applicable reporting period, the non-payment will constitute a contract debt to the State. The State may setoff any unpaid revenue share from any amount owed to the Contractor under this Contract and employ all other remedies available to it under Ohio law for the non-payment of the revenue share. Additionally, if the Contractor fails to pay the revenue share in a timely manner, the failure will be a breach of this Contract, and the State may terminate this Contract for cause and seek damages for the breach.

## 7 - WARRANTIES AND LIABILITIES

- 7.1 **WARRANTIES.** With respect to the Contractor's activities under this Contract, the Contractor warrants that:

- (a) The Contractor has the right to enter into this Contract;
- (b) The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract;
- (c) The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control;
- (d) The Contractor has good and marketable title to any products delivered under this Contract and in which title passes to the State; and
- (e) The Contractor has the right and ability to grant the license provided in any Deliverable in which title does not pass to the State.

**7.2 Reserved.**

**7.3 WARRANTY.**

The Contractor warrants that product shall be free from defects in material and workmanship under normal use during the warranty period. The warranty period for a product starts on the original date of purchase specified on Contractor's invoice unless specified otherwise by Contractor in writing. The warranty period, type of warranty service and the hardware products by the warranty described in this **Section 7.3** of this Contract shall be as specified in the Warranty Service Information, attached to and made part of this Contract as Exhibit IV. Repair, correction and replacement in the manner described in Exhibit IV shall constitute fulfillment of all of Contractor's obligations under this warranty.

This warranty shall not apply to any hardware product which has been subjected to misuse, accident, unauthorized modification; operation in an unsuitable physical or operating environment, natural disasters, power surges or unauthorized maintenance after to any third party hardware products or to software whether provided with a hardware product or installed subsequently. This warranty does not include any technical support, such as assistance with "how-to" questions and those regarding hardware product set-up and installation. This warranty shall be voided by the removal or alteration of identification labels on a hardware product or its parts. In no event shall this warranty include liability for uninterrupted or error-free operation of a hardware product or any loss or damage to data on a hardware product.

THIS WARRANTY IS EXCLUSIVE OF AND IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL SOFTWARE, SERVICE, SUPPORT AND ALL THIRD PARTY PRODUCTS AND SERVICES ARE PROVIDED AS IS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND. Third party manufacturers, suppliers, service providers or publishers may provide their own warranties to Customer.

**7.4 INDEMNITY.** The Contractor must indemnify the State against all liability or expense resulting from bodily injury to any person (including injury resulting in death) or damage to real or tangible personal property arising out of its performance under this Contract, provided such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors. The Contractor also must indemnify the State against any claim of infringement of a copyright, patent, trade secret, or other intellectual property rights based on any Deliverable under this Contract. This obligation of indemnification will not apply where the State has modified the Deliverable and the claim of infringement is based on the modification. The State will give the Contractor notice of

any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will do one of the following four things:

- (a) Modify the Deliverable so that it is no longer infringing;
- (b) Replace the Deliverable with an equivalent item;
- (c) Acquire the right for the State to use the Deliverable as it was intended for the State to use under this Contract; or
- (d) Upon written request, remove the Deliverable and provide a credit to the State in the amount paid for the Deliverable

Contractor shall have no obligation hereunder regarding any claim based upon: (i) anything the State provides which is incorporated into, or combined with, Contractor's products or services; (ii) any modification of the products or services except at the direction of the Contractor, (iii) Contractor's compliance with the States' unique specifications or requirements; or (iv) infringement of a third party product alone.

**7.5 LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS CONTRACT OR ANY PURCHASE ORDER ISSUED HEREUNDER, EXCEPT FOR CONTRACTOR'S LIABILITY UNDER SECTION 7.4:

- (a) NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR: ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST PROFITS, BUSINESS, REVENUE, GOODWILL OR ANTICIPATED SAVINGS, IN ANY ACTION WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE AND EVEN IF THE PARTIES HAVE BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES; AND
- (b) THE CONTRACTOR WILL BE LIABLE FOR ALL DIRECT DAMAGES DUE TO THE FAULT OR NEGLIGENCE OF THE CONTRACTOR PROVIDED HOWEVER THAT CONTRACTOR'S TOTAL CUMULATIVE LIABILITY FOR SUCH DIRECT DAMAGES RELATED TO THIS AGREEMENT SHALL BE LIMITED THREE (3) TIMES THE TOTAL AMOUNT PAID FOR THE PRODUCTS/SERVICES OR EIGHT MILLION DOLLARS (\$8,000,000) WHICHEVER IS GREATER.

**8 - RESERVED**

**9 - ASSIGNMENT AND SUBCONTRACTING**

- 9.1 ASSIGNMENT.** The Contractor may not assign this Contract without the written consent of the State which will not be unreasonably withheld.
- 9.2 SUBCONTRACTING.** The State recognizes that it may be necessary for the Contractor to use subcontractors to perform such services as it may request under this Contract. In those circumstances, before the Contractor engages any such subcontractor to provide services specific to the State, Contractor shall obtain the approval of the subcontractor by the State, except for subcontractors it engages in its ordinary course of business.

**10 - CONSTRUCTION**

- 10.1 HEADINGS.** The headings used in this Contract are for convenience only and may not be used in interpreting this Contract.
- 10.2 ENTIRE DOCUMENT.** This Contract, which includes the Contractor's pricelist attached as Exhibit I and Exhibits II, III, IV, V and VI, attached hereto and made a part hereof, constitutes the entire agreement between the parties with respect to the subject matter and supersedes any previous agreements, whether oral or written.
- 10.3 BINDING EFFECT.** This Contract will be binding on and benefit the respective successors and assigns of the State and the Contractor.
- 10.4 AMENDMENTS - WAIVER.** No amendment or modification of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at any time to demand strict performance by the other party of any of the terms or conditions of this Contract may not be construed as a waiver of any those terms or conditions, and either party may at any time demand strict and complete performance by the other party.
- 10.5 SEVERABILITY.** If a court of competent jurisdiction finds any provision of this Contract to be unenforceable, the remaining provisions of this Contract will remain in full force and affect.

- 10.6 CONSTRUCTION.** This Contract must be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.
- 10.7 NOTICES.** For any notice under this Contract to be effective, the noticing party must make it in writing and sent it to the address of the other party first appearing above, unless that party has notified the other party, in writing and in accordance with the provisions of this section, of a new mailing address for the receipt of notices. This notice requirement will not apply to any notices that this Contract expressly authorizes to be made orally.
- 10.8 CONTINUING OBLIGATIONS.** Any terms, conditions, representations, or warranties contained in this Contract that must survive termination or expiration of this Contract to be fully effective will survive the termination or expiration of the Contract including but not limited to the Limitation of Liability in **Section 7.5**. Additionally, termination or expiration of this Contract will not affect the State's right to continue to use any Deliverable for which it has paid, including licensed material. And no termination or expiration of the Contract will affect the State's right to receive maintenance, warranty work, or other services for which the State has paid.
- 10.9 PRIORITY.** If there is any inconsistency or conflict between this document and any provision of anything incorporated by reference, this document will prevail.
- 10.10 DAYS.** When this Contract refers to days, it means calendar days, unless it expressly provides otherwise.

## 11 - LAW AND COURTS

- 11.1 EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor will comply with all state 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 a contract 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/>
- 11.2 DRUG FREE WORKPLACE.** The Contractor must comply with all Ohio laws regarding maintaining a drug-free workplace and make a good faith effort to ensure that all its employees do not possess and are not under influence of illegal drugs or alcohol or abuse prescription drugs while working on State property.
- 11.3 OHIO ETHICS LAW AND LIMITS ON POLITICAL CONTRIBUTIONS.** The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor hereby certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with Ohio Revised Code Section 3517.13.
- 11.4 SECURITY & SAFETY RULES.** When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.
- 11.5 LAW AND VENUE.** This Contract is governed by and will be construed under Ohio law, and venue for all disputes will lie exclusively with the appropriate court in Franklin County, Ohio.
- 11.6 UNRESOLVED FINDINGS.** The Contractor represents that it is not subject to an unresolved finding for recovery under Code § 9.24. If this warranty proves false when the parties sign this Contract, the Contract will be void. Additionally, if this representation proves false on the date of any renewal or extension of the Contract, the renewal or extension will be void.
- 11.7 ANTITRUST.** The State and the Contractor recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by the State. The Contractor therefore assigns to the State all state and federal antitrust claims and causes of action that the Contractor has or acquires relating to the goods and services acquired under this Contract.

**11.8 Governing the Expenditure of Public Funds on Offshore Services (EO 2011-12K).** The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract. The Contractor agrees to complete the attached Executive Order 2011-12K Affirmation and Disclosure Form which is incorporated and becomes a part of this Agreement.

**11.9 REGISTRATION WITH THE SECRETARY OF STATE.** By providing a Charter Number and signature within the Certification Offer Letter, the Contractor attests that the Contractor is:

An Ohio corporation that is properly registered with the Ohio Secretary of State; or

A foreign corporation, not incorporated under the laws of the state of Ohio, but is registered with the Ohio Secretary of State pursuant to Ohio Revised Code Sections 1703.01 to 1703.31, as applicable.

Any foreign corporation required to be licensed under O.R.C. § 1703.01-1703.31, which transacts business in the state of Ohio, without being so licensed, or when its license has expired or been canceled, shall forfeit not less than \$250.00 nor more than ten thousand dollars. No officer of a foreign corporation (<http://codes.ohio.gov/orc/1703.01>) shall transact business in the state of Ohio, if such corporation is required by O.R.C. § 1703.01-1803.31 to procure and maintain a license, but has not done so. Whoever violates this is guilty of a misdemeanor of the fourth degree. Questions regarding registration should be directed to (614) 466-3910, or visit <http://www.sos.state.oh.us>

**To SHOW THEIR AGREEMENT,** the parties have executed this Contract on the date(s) identified below, and this Contract will be effective as of the date it is signed on behalf of the State.

**CONTRACTOR: LENOVO (UNITED STATES) INC.**

**STATE OF OHIO,  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
OFFICE OF STATE PURCHASING**

BY:   
DARREN MOCK, SALES MANAGER,  
PUBLIC SECTOR SALES

BY:   
ROBERT BLAIR, DIRECTOR,  
DEPARTMENT OF ADMINISTRATIVE SERVICES

DATE: MAY 20, 2013

DATE: 6-19-13

Exhibit I  
STS Price List as may be modified from time to time

Product Name	Manufacturer	Manufacturer Part No	Description	Unit of Measure	State Price
SFF Standard Business Class Non-vPro	Lenovo	2697BG9	Lenovo M82 - When ordering include PN 41C9194 (4th year warranty)	EA	\$557.00
TWR Standard Business Class Non-vPro	Lenovo	2756CU8	Lenovo M82 - When ordering include PN 41C9194 (4th year warranty)	EA	\$557.00
SFF Standard Business Class vPro	Lenovo	3209BJ7 3212DE5	Lenovo M92p - When ordering include PN 41C9194 (4th year warranty)	EA	\$589.00
TWR Standard Business Class vPro	Lenovo	2697BH1	Lenovo M82 - When ordering include PN 41C9194 (4th year warranty)	EA	\$589.00
SFF Speciality Business Class Non-vPro	Lenovo	2756CU9	Lenovo M82 - When ordering include PN 41C9194 (4th year warranty)	EA	\$768.00
TWR Speciality Business Class Non-vPro	Lenovo	3209BJ8	Lenovo M92p - When ordering include PN 41C9194 (4th year warranty)	EA	\$768.00
SFF Speciality Business Class vPro	Lenovo	3212DE6	Lenovo M92p - When ordering include PN 41C9194 (4th year warranty)	EA	\$779.00
TWR Speciality Business Class vPro	Lenovo	41C9194	Include with desktops for 4th year warranty	EA	\$21.00
Desktop 4y NextBusDay Onsite DT - 3 Year HDD Retention (standalone from 3 Yr IOR)	Lenovo	43R2157	OPTIONS/IUPGRADES - DESKTOP	EA	\$15.45
Upgrade to 320GB OPAL	Lenovo	HDDUP	OPTIONS/IUPGRADES - DESKTOP	EA	\$20.60
L1 CA Wi-Fi Canyon Peak HP XP	Lenovo	0B93120	OPTIONS/IUPGRADES - DESKTOP	EA	\$15.45
L1 SM 4GB 1600MHz UDIMM DDR3	Lenovo	0B44909	OPTIONS/IUPGRADES - DESKTOP	EA	\$30.90
Upgrade to 128GB SSD	Lenovo	128SSDUP	OPTIONS/IUPGRADES - DESKTOP	EA	\$154.50
Upgrade to 180GB SSD	Lenovo	180SSDUP	OPTIONS/IUPGRADES - DESKTOP	EA	\$242.05
Standard Mobile Notebook 14.1" vPro	Lenovo	23499R3	Lenovo T430 - When ordering include PN's 45K6038 4y (NextBusDay Onsite); 55Y2646 (4 Y Warranty - Battery); 55Y9946 (Computrace Complete)	EA	\$838.00

Standard Mobile Notebook 15.6" vPro	Lenovo	2429NE4	Lenovo T530 - When ordering include PN's 45K6038 4y (NextBusDay Onsite); 55Y2646 (4 Y Warranty - Battery); 55Y9946 (Computrace Complete)	EA	\$858.00
Convertible Tablet	Lenovo	3438GN5	Lenovo X230 Tablet - When ordering include PN's 12X5630 (4y NextBusDay Onsite); 12X5630 (4y NextBusDay Onsite); 55Y9946 (Computrace Complete)	EA	\$1,143.00
Ultra-Portable	Lenovo	2325T9F	Lenovo X230 - When ordering include PN's 12X5630 (4y NextBusDay Onsite); 12X5630 (4y NextBusDay Onsite); 55Y9946 (Computrace Complete)	EA	\$923.00
Ultrabook	Lenovo	3448C56	Lenovo X1 Carbon - When ordering include PN's 41C9177 (4y NextBusDay Onsite); 04W7783 (Sealed Battery Replacement); 55Y9946 (Computrace Complete)	EA	\$1,257.00
4y NextBusDay Onsite	Lenovo	45K6038	Use with laptop p/n's 23499R3 & 2429NE4	EA	\$52.00
4 Y Warranty - Battery	Lenovo	55Y2646	Use with laptop p/n's 23499R3 & 2429NE4	EA	\$100.00
Computrace Complete	Lenovo	55Y9946	Use with laptop p/n's 23499R3, 2429NE4, 3438GN5, 2325T9F, & 3448C56	EA	\$75.29
4y NextBusDay Onsite	Lenovo	12X5630	Use with laptop p/n's 3438GN5 & 2325T9F	EA	\$52.00
4 Y Warranty - Battery	Lenovo	55Y2646	Use with laptop p/n's 3438GN5 & 2325T9F	EA	\$100.00
4y NextBusDay Onsite	Lenovo	41C9177	Use with laptop p/n 3448C56	EA	\$72.00

Sealed Battery Replacement	Lenovo	04W7783	Use with laptop p/n 3448C56	EA	\$21.00
ThinkPad Mini Dock Series 3 (90w Power Adapter TOOL)	Lenovo	433710U	OPTIONS/UPGRADES - LAPTOP	EA	\$149.35
Docking station (X230 Tablet)	Lenovo	0A33932	OPTIONS/UPGRADES - LAPTOP	EA	\$158.62
Lenovo USB 3.0 Port Replicator with Dual Video(US)	Lenovo	0A33970	OPTIONS/UPGRADES - LAPTOP	EA	\$113.30
ThinkPad Mini Dock Plus Series 3 with USB 3.0 (90w Power Adapter NRE/TOOL)	Lenovo	433815U	OPTIONS/UPGRADES - LAPTOP	EA	\$169.95
Preferred Pro USB KB(OBI)	Lenovo	73P5220	OPTIONS/UPGRADES - LAPTOP	EA	\$15.45
USB Optical Wheel mouse (Option)	Lenovo	06P4069	OPTIONS/UPGRADES - LAPTOP	EA	\$9.27
Lenovo 90W UltraslimAC/DC ComboAdapter (US.Canada Powercord)	Lenovo	41R4493	OPTIONS/UPGRADES - LAPTOP	EA	\$76.22
T Extended Battery	Lenovo	0A36303	OPTIONS/UPGRADES - LAPTOP	EA	\$98.88
T Secondary Battery	Lenovo	0A36302	OPTIONS/UPGRADES - LAPTOP	EA	\$78.28
X Extended Battery	Lenovo	0A36306	OPTIONS/UPGRADES - LAPTOP	EA	\$78.28
X Secondary Battery	Lenovo	0A36307	OPTIONS/UPGRADES - LAPTOP	EA	\$98.88
X Tablet Extended Battery	Lenovo	0A36317	OPTIONS/UPGRADES - LAPTOP	EA	\$78.28
X Tablet Secondary Battery	Lenovo	0A36316	OPTIONS/UPGRADES - LAPTOP	EA	\$98.88
ThinkPad Business Topload Case	Lenovo	43R2476	OPTIONS/UPGRADES - LAPTOP	EA	\$32.96
4YR Onsite-4YR KYD	Lenovo	55Y3396	OPTIONS/UPGRADES - LAPTOP	EA	\$30.90
L1 PD Fingerprint Reader	Lenovo	0B54277	OPTIONS/UPGRADES - LAPTOP	EA	\$20.60
Upgrade to 320GB Encrypted (T430)	Lenovo	ENCRUP	OPTIONS/UPGRADES - LAPTOP	EA	\$10.30
Broadband Card	Lenovo	0B54284	OPTIONS/UPGRADES - LAPTOP	EA	\$180.25
Upgrade to 128GB SSD (T Series)	Lenovo	SSDUP	OPTIONS/UPGRADES - LAPTOP	EA	\$128.75
Upgrade to 180GB SSD (T Series)	Lenovo	SSDUP	OPTIONS/UPGRADES - LAPTOP	EA	\$206.00
L1 CAM 720p HD Camera (T Series)	Lenovo	0B54307	OPTIONS/UPGRADES - LAPTOP	EA	\$10.30
L1 BT Bluetooth 4.0 (T Series)	Lenovo	0B54286	OPTIONS/UPGRADES - LAPTOP	EA	\$5.15
L1 PD Fingerprint Reader (T Series)	Lenovo	0B66487	OPTIONS/UPGRADES - LAPTOP	EA	\$20.60
L1 HD X230 SS180GB SATA3	Lenovo	SSDUP	OPTIONS/UPGRADES - LAPTOP	EA	\$180.25
L1 CAM 720p HD Camera (X Series)	Lenovo	0B66509	OPTIONS/UPGRADES - LAPTOP	EA	\$10.30
L1 BT Bluetooth 4.0 (X Series)	Lenovo	0B54286	OPTIONS/UPGRADES - LAPTOP	EA	\$5.15
L1 HD X1 SF240GB SATA3	Lenovo	SSDUP	OPTIONS/UPGRADES - LAPTOP	EA	\$231.75
Custom Image Load on ThinkPad/ThinkCentre	Lenovo	06P7506	OPTIONS/UPGRADES - LAPTOP	EA	\$15.45
Standard Asset Tag	Lenovo	06P7487	OPTIONS/UPGRADES - LAPTOP	EA	\$4.12
vPro Factory Provisioning	Lenovo	45J8468	OPTIONS/UPGRADES - LAPTOP	EA	\$10.30
22" LT2252pW Wide Monitor	Lenovo	2572MB6	22" LT2252pW Wide Monitor	EA	\$150.00
24" LS2421pW Wide Monitor	Lenovo	4015LS1	24" LS2421pW Wide Monitor	EA	\$186.00

**Exhibit II**



Computrace.pdf



L505-0009-01  
ENG.pdf



Microsoft Windows 7  
Professional License (

November 24, 2011. Version 4.1

In this Service Agreement, capitalized words and terms have specific meanings that are defined throughout the body of the Agreement and in the Schedules and Appendices hereto. Terms not otherwise defined herein are set forth in Schedule "I". This Service Agreement (the "**Agreement**") is between **YOU** and **ABSOLUTE SOFTWARE** and/or its Affiliates ("**Absolute**"). Immediately below is the name of the Absolute company that is contracting with you based on the country or region where you are located unless otherwise agreed in writing.

**Asia, Australia, Canada, Mexico, Central America, South America, and the Caribbean:** Your agreement is with ***Absolute Software Corporation***, a company incorporated under the laws of the Province of British Columbia, Canada.

**Europe, Middle East and Africa:** Your agreement is with ***Absolute Software EMEA Limited***, a company incorporated under the laws of the United Kingdom.

**United States:** Your agreement is with ***Absolute Software, Inc.***, a company incorporated under the laws of the State of Washington, USA.

1. **Service.** Absolute will provide you with Online use of the Service, including a browser-supported interface and related data encryption, transmission, access and storage via a Monitoring Center, as well as Client Software components of the Absolute Technology, on the terms and conditions set out in this Agreement.
2. **Service Features.** The Service is based on Absolute's Technology and is offered in different editions, each of which contains different features. You acknowledge that (a) you are aware of the features specific to the various editions of the Service, that these features have been generally described to you and are available Online, and (b) for the purposes of this Agreement, the features of a particular edition of the Service are as described in the documentation supplied Online. If the edition of the Service you subscribed for includes a Theft Recovery feature, then you hereby agree to the terms and conditions set forth in Appendix "A" hereto. If you subscribed for an edition of the Service with a Service Guarantee, you hereby agree to the terms and conditions set forth in Appendix "B" hereto. If your Order includes Professional Services in addition to the Service, you hereby agree to the terms and conditions set forth in Appendix "C" hereto. The Appendices included by reference in this Section 2 form an integral part of this Agreement.
3. **License.** Upon completing registration for an edition of the Service and Absolute's acceptance of an Order pursuant to Section 10, Absolute grants to you a non-exclusive, non-transferable, limited license only to internally use such edition of the Service, during the Service Term, on the Customer Device(s) for which you have purchased such Service Term in an Order, subject to all of the terms, conditions, restrictions and other provisions of this Agreement. All rights not expressly granted to you are reserved by Absolute and, if applicable, its licensors. If the license is being granted for the purpose of an evaluation by you of the Service and/or the Absolute Technology, then your license will be valid for a maximum of sixty (60) days, unless otherwise specifically agreed in writing, and the Service may be used only for the purpose of such evaluation.

4. **Renewals.** You agree that Absolute or its authorized resellers may contact you regarding the renewal of your Service Term and any other Services you may have purchased during the Service Term or to offer you additional Absolute service offerings made available from time to time. You hereby agree that Absolute and its authorized resellers may use your personal information for this purpose. Absolute will not sell or otherwise disclose your personal information to third parties without your consent.
5. **Customer and Technical Support.** During the Service Term, Absolute or Authorized Third Parties will, using commercially reasonable efforts, provide customer and technical support to you. Customer and technical support is available to you in the languages and during the hours of operation expressly indicated by Absolute via Global Support.
6. **Owner Consents, Authorizations and Instructions.** Without the need for further notification, consent or express instruction (unless otherwise expressly agreed in writing), owner hereby consents, authorizes, permits and instructs Absolute and its Authorized Third Parties to do the following:

(a) to collect data regarding Owner's Customer Devices, including identifying characteristics such as the ESN, Universally Unique Identifier (UUID), memory identification serial number and other identifying characteristics, as well as information about its use and location, as required by the Service and the persistence thereof,

(b) to collect and use other personal information by Absolute pursuant to Absolute's Privacy Policy; *provided, however*, that under Applicable Laws you acknowledge that you are a "data collector" whereas Absolute is a "data processor";

(c) to periodically automatically Update the installed Client Software on Owner's Customer Device in order to ensure correct, full and continuing functionality of the Service and compliance with this Agreement;

(d) to remotely download and install additional Client Software onto Owner's Customer Device in order to provide the Service; and

(e) to perform anonymized statistical analysis of access to and use of the Service for the purposes of measuring the effectiveness of the Services, optimizing performance, and ensuring compliance with this Agreement.

(f) upon Theft Recovery Activation, to utilize any and all of its theft recovery tools in order to recover the Owner's Customer Device(s). Owner instructs Absolute and its Authorized Third Parties to utilize any and all of its theft recovery tools to the extent Absolute views it beneficial to the recovery of Owner's Customer Device(s). Owner recognizes that these theft recovery tools include, without limitation, (i) the collection of internet protocol (IP) addresses of the Owner's stolen Customer Device(s); (ii) collection of keystroke logs of the Owner's stolen Customer Device(s); (iii) the uploading of files stored on the Owner's stolen Customer Devices and any other information on Owner's stolen Customer Device to the secure servers of Absolute and/or its Authorized Third Parties; and

(iv) such additional theft recovery tools as Absolute may from time to time develop as applicable technology evolves.

7. **Things You Must Do.** In accessing or using the Service or any part of it, you must

(a) use the Absolute Technology and the Service in accordance with the Product Documentation, Computrace Best Practices, LoJack for Laptops Best Practices, and as otherwise described Online, including providing proper authorization for the features involving destruction, retrieval and tracking of data;

(b) completely remove the Absolute Technology from a Customer Device prior to your sale or transfer of such Customer Device to another party;

(c) comply with all Applicable Laws; and

(d) promptly notify Absolute if you learn of any security breach related to the Service.

8. **Things You Must Not Do.** In accessing or using the Service or any part of it, you must not, directly or indirectly,

(a) access the Service in respect of a Customer Device at any time other than during a valid Service Term for such Customer Device;

(b) without the express written consent of Absolute, knowingly attempt to increase the likelihood a Customer Device will be lost or stolen, including using the Service as part of any Theft Detection Program;

(c) use or access the Service (i) if you are a direct competitor of Absolute, except with Absolute's prior written consent, or (ii) for purposes of competitive benchmarking or similar purposes;

(d) install on your Customer Device any more Client Software than is reasonably required to use the Service Term purchased by you for that particular Customer Device (including for dual-boot configurations);

(e) install the Client Software on any computing device other than a Customer Device for which you have purchased a valid Service Term;

(f) other than as expressly permitted herein, license, sublicense, sell, resell, transfer, assign, distribute, rent, lease, or otherwise commercially exploit the Service or the Absolute Technology in any way;

(g) modify, decompile, reverse assemble, reverse engineer, translate or disassemble, or make derivative works based on, any part of the Service or the Absolute Technology for any reason or purpose;

(h) create Internet links to the Service, or frame, mirror or embed any Content, on any server or wireless or Internet-based device, except through the Client Software and the Monitoring Center; or

(i) copy the Absolute Technology into a machine-readable or printed form other than as necessary in support of your use of the Service or for reasonable backup purposes.

9. **Transfer of License.**> You may only transfer your Service Term from your Customer Devices to your other Customer Devices, and if you have a consumer edition of the Service and wish to transfer your Service Term, you must do so by providing written notification of such transfer to Absolute through Global Support, following the instructions for Service Term transfers described by Global Support and, if applicable, accurately registering and activating the transferee Customer Device's make, model and ESN in the Customer Center.
10. **Orders.** You may purchase license(s) to use the Service by sending an Order to Absolute, including the appropriate Absolute Affiliate in your region or country, or to an Absolute authorized reseller, but unless otherwise expressly agreed in writing, Absolute may accept or reject any Order in its sole discretion and is not bound to license to you any Service. Each such Order is incorporated into and becomes a part of this Agreement once accepted. Notwithstanding the foregoing, if an Order contains any additional terms and conditions, such terms and conditions will not apply to, become part of, or supersede this Agreement, regardless of any statement to the contrary contained therein.
11. **Term of Agreement.** Unless earlier terminated as provided for elsewhere in this Agreement, this Agreement will be effective during the Service Term and will automatically expire immediately after the last day of the final remaining Service Term. When this Agreement terminates, each outstanding Service Term will expire automatically.
12. **Termination for Convenience.** Either party may terminate any outstanding Service Term at any time for convenience and with or without cause immediately upon electronic notification to the other party at the last email address provided by such party. However, if Absolute terminates a Service Term for convenience, Absolute will refund a pro-rated portion of the purchase price (if any) to you to account for the unused portion of the remaining Service Term. No such refund will be payable for evaluation licenses. Nothing in this Section gives you any right to a refund from Absolute except as stated herein; your rights to refunds for other terminations are specified elsewhere in this Agreement.
13. **Events Causing Termination of Service Term.** Except as expressly set out in this Agreement, each of the following events will cause the Service Term (but, pursuant to Section 11, not necessarily this Agreement) applicable to your Customer Device to terminate automatically without notice:
  - (a) the payment of a Service Guarantee to you or your designee (if applicable);
  - (b) if you have a consumer edition of the Service with Theft Recovery features, the Recovery of a number of Customer Devices covered by the Service that is equal to the number of years of the Service Term plus one (for example, a two year Service Term would be entitled to a maximum of three Recoveries); and

(c) your material failure to comply with the terms and conditions of this Agreement in respect of such Customer Device or Service Term;

and in each such case Absolute will not be obligated to refund to you any portion of the purchase price paid by you (if any) for the Service Term, regardless of the length of the initial or remaining Service Term purchased. If all your outstanding Service Terms are terminated then this Agreement shall terminate.

**14. Your Obligations on Termination.** If a Service Term for your Customer Device has terminated, you will disable and remove the Agent from that Customer Device. Furthermore, if this Agreement has been terminated for any reason, you will immediately:

(a) cease using and, at Absolute's option, immediately return to Absolute or destroy all copies of the Absolute Technology and all Content in your possession or under your control;

(b) pay all outstanding obligations to Absolute or its authorized reseller, if any; and

(c) no longer be entitled to access the Service, the Monitoring Center and, if applicable, the Customer Center, and you hereby agree to such access being disabled upon such termination.

**15. Suspension or Termination for Failure to Pay.** Your failure to make any payment to Absolute or its authorized reseller for the Services will constitute a material breach of this Agreement, and Absolute may suspend or terminate your access to the Services if you have not remedied such non-payment within fifteen (15) days of notice to you thereof. Furthermore, Absolute's suspension or resumption of Services will not limit or prevent Absolute from pursuing all other remedies available to it.

**16. Security Administrators.** Certain features of the Service require that you authorize one or more Security Administrator(s) to enable and launch such features and to be given administrator level login privileges to the Customer Center. You must complete and send to Absolute the Security Authorization Form, available in Customer Center, to authorize, remove, modify, or rescind the rights of a Security Administrator, and in some cases must submit a support case regarding such de-activation Online through Global Support (and Absolute will verify its instructions, make such changes, and then notify you when this has been completed). The Security Authorization Form is available to you either by logging into your customer account Online or by having it mailed to you after you request it via telephone at the telephone numbers listed at <http://www.absolute.com/support/corporate/contact>.

**17. Training Services.** If training credits are included on your Order, Absolute will provide you with any Training Services that you purchase from Absolute, at a mutually acceptable time. All Training Services must be exchanged for an available seat in a Training Services class within one (1) year from the date of purchase of the training credits relating to such Training Services, or such credits will expire and no refund will be available to you for such credits or Training Services. Training Services are only available for Absolute's Services.

Absolute will use commercially reasonable efforts when scheduling classes of Training Services to provide sufficient opportunity for you to exchange training credits for Training Services.

18. **Ownership and Intellectual Property Rights.** Absolute, its Authorized Third Parties and their respective licensors have Intellectual Property Rights covering the Service and the Absolute Technology. You acknowledge that all right, title and interest (including all Intellectual Property Rights) in and to the Service and the Absolute Technology are the property of Absolute, its Authorized Third Parties or their respective licensors, and that the only rights you have with respect to the Service and the Absolute Technology is the right to use them in accordance with the terms of this Agreement. Except for such right as set out herein, no right, title or interest (including any Intellectual Property Rights) in or to (a) the Service or the Absolute Technology, or (b) any other property or Intellectual Property Rights of Absolute, its Authorized Third Parties or their respective licensors, is transferred to you. Additionally, you confirm that any copies of the Absolute Technology you make will contain the same proprietary notices, which appear on and in the Absolute Technology, and you agree that you will not copy any printed or other tangible materials forming part of the Absolute Technology that is software except as permitted herein. For greater clarity, notwithstanding any provision of the Agreement to the contrary, Absolute, its Authorized Third Parties, and their respective licensors own and retain all title to, ownership of, and all Intellectual Property Rights in, the Service and the Absolute Technology.
19. **Third Party Software.** The Service may include Third Party Software. The Third Party Software is provided to you subject to this Agreement and any separate license agreements that accompany such programs. Notwithstanding Section 21 or any other provision of this Agreement, the Third Party Software is furnished to you by Absolute on an "as-is" and "as-available" basis and without any representations or warranties of any kind, express or implied. Absolute specifically disclaims any liability arising out of your installation or use of any Third Party Software.
20. **Confidential Information.** Each party agrees to protect the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind but in no case with less than reasonable care. Each receiving party will limit access to the other party's Confidential Information to those employees and consultants of the receiving party who have a need to know such information. Except as set out in this Agreement, no party grants to the other any right, title or interest (including any Intellectual Property Rights) in or to its Confidential Information. The obligations of confidentiality set out in this Section 20 will not apply in respect of uses or disclosures of Confidential Information where (a) the owner consents in writing, (b) disclosure is required to comply with any Applicable Laws or judicial order, or (c) a party can establish with documentary evidence that, other than as a result of a breach of this Agreement, the Confidential Information (i) is available in the public domain, (ii) was disclosed to it by a third party without violating confidentiality obligations, or (iii) was already known by it or was subsequently developed by it without any use of Confidential Information. Notwithstanding any of the foregoing, if the parties have executed a separate confidentiality agreement prior to the date of this Agreement, the provisions of such separate confidentiality agreement will govern to the extent of any necessary inconsistency or conflict with this Section

21. **Absolute Limited Warranty.** Except with respect to the use by you of the Service or the Absolute Technology on an evaluation basis (in which case Absolute disclaims all representations and warranties whatsoever, whether express or implied), Absolute represents and warrants to you only that (a) Absolute owns or otherwise has the right (including all Intellectual Property Rights) to license the Service and the Absolute Technology to you under this Agreement; and (b) during the Service Term, the Absolute Technology will function substantially in accordance with the applicable Product Documentation.
22. **Exclusions of Warranty.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 21, AND FURTHER EXCEPT TO THE EXTENT EXPRESSLY PROVIDED BY AN APPLICABLE SERVICE GUARANTEE IN THIS AGREEMENT, YOU ACKNOWLEDGE THAT THE SERVICE AND THE ABSOLUTE TECHNOLOGY IS PROVIDED ON AN "AS-IS" AND "AS-AVAILABLE" BASIS, AND ABSOLUTE, ON BEHALF OF ITSELF, ITS AFFILIATES AND ITS AUTHORIZED THIRD PARTIES, DISCLAIM ALL WARRANTIES WITH RESPECT TO THE SERVICE AND THE ABSOLUTE TECHNOLOGY, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ABSOLUTE DOES NOT PROVIDE, AND EXPRESSLY DISCLAIMS, ANY WARRANTIES WITH RESPECT TO ITS ABILITY TO RECOVER, TO TRACK, TO LOCK, OR TO REMOTELY DELETE DATA FROM, ANY CUSTOMER DEVICE. While Absolute has made reasonable efforts to ensure that the Service and the Absolute Technology all work with certain operating systems and application software, Absolute cannot and does not check every possible combination of equipment or software available or that is subsequently installed or used by you. YOU BEAR THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE ABSOLUTE TECHNOLOGY AND THE RELATED SERVICE, OTHER THAN AS SPECIFICALLY SET FORTH IN THE SERVICE GUARANTEE AND IN THE WARRANTIES SET OUT IN SECTION 21. TO THE EXTENT THAT THE JURISDICTION IN WHICH YOU RESIDE OR TO WHICH ABSOLUTE DELIVERS THE SERVICE DOES NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, THE LIMITATIONS OR EXCLUSIONS SET OUT IN THIS SECTION 22 MAY NOT APPLY TO YOU IN SUCH A JURISDICTION AND ANY IMPLIED WARRANTIES RELATING TO THE SOFTWARE ARE LIMITED TO THIRTY (30) DAYS FROM THE COMMENCEMENT OF THE APPLICABLE SERVICE TERM. THESE IMPLIED WARRANTIES GIVE YOU SPECIFIC LEGAL RIGHTS AND YOU MAY HAVE OTHER RIGHTS, WHICH VARY FROM JURISDICTION TO JURISDICTION.
23. **Exclusive Remedies.** If Absolute is in material breach of any of the representations and warranties in Section 21, subject to any applicable Service Guarantee, your exclusive remedies, and Absolute's sole obligations to you, will be as follows:
- (a) if there is a material breach of the warranty set forth in item (a) of Section 21, Absolute may, at its option and expense, (i) obtain a license permitting you to continue to use the Service or the Absolute Technology (as the case may be), (ii) replace or modify the Service or the Absolute Technology so that there is no breach, or (iii) if Absolute does not consider (i) or (ii) to be commercially feasible, terminate this Agreement with no further liability to you except for a pro-rated

refund of the fees paid by you under this Agreement representing the remainder of the unused Service Terms; and

(b) if there is a material breach of the warranty set forth in item (b) of Section 21, and provided you notify Absolute of the specific non-conformance within the applicable Service Term, Absolute will, at its option and expense, (i) modify the Service or the Absolute Technology to conform to the Product Documentation, (ii) provide a reasonable workaround solution that will reasonably meet your requirements, or (iii) if Absolute does not consider either (i) or (ii) to be commercially feasible, Absolute may terminate this Agreement with no further liability to you except for a pro-rated refund of the fees paid by you under this Agreement representing the remainder of the unused Service Term.

24. **Your Technical Environment.** You acknowledge that in order to use certain the Service, you must independently provide the Technical Environment at your own cost and expense , including without limitation Absolute Technology-compatible operating systems for all editions of the Service and the minimum Technical Environment requirements pursuant to the applicable Product Documentation. Absolute does not have any obligation to support any elements of the Technical Environment. You acknowledge that use of the Absolute Technology may require certain licenses for Technical Environment software in order for the Absolute Technology to be functional.

25. **Your Indemnifications of Absolute.** You hereby agree to indemnify and save harmless the Absolute Entities from and against all Claims and Losses in any way incurred by any Absolute Entities:

(a) in respect of any Proceedings to which the Absolute Entity is made a party in connection with or arising out of (i) your use of the Service or any action authorized by you or your designated Security Administrator that is carried out by you or the applicable Absolute Entity or (ii) as a result of your actions, misuse of the Absolute Technology, non-compliance with the terms herein or failure to operate the Absolute Technology in accordance with the Product Documentation or Security Authorization Form;

(b) in respect of any Proceedings to which the Absolute Entity is made a party in connection with or arising out of your failure to remove the Absolute Technology from a Customer Device;

(c) in connection with or arising out of your use of the Service in violation of any Applicable Laws;

(d) arising from or in connection with any unauthorized use of the Technical Environment or failure of your Technical Environment; and

(e) in respect of any Proceedings to which the Absolute Entity is made a party in connection with or arising out of false or misleading information submitted by or on behalf of you in connection with the theft or loss of your Customer Device(s).

26. **Absolute's Indemnification of You.** Subject to Sections 27 and 28, and provided that you are using the then-current release or the immediately prior

release of the Service and the Absolute Technology available from Absolute in accordance with the terms of this Agreement and the Product Documentation, Absolute hereby agrees to indemnify and save the Customer Indemnified Parties harmless from and against all Claims and Losses in any way incurred by a Customer Indemnified Party in respect of any Proceedings to which the Customer Indemnified Party is made a party by reason of or in connection with or arising out of any allegation that your use of the Absolute Technology as permitted by this Agreement infringes any Intellectual Property Rights that are enforceable in Canada, the United States, or the jurisdiction to which Absolute directs your Service, provided that if such Intellectual Property Rights relate to a business methods patent, this indemnity shall only apply in respect of infringements of which Absolute is actually aware at the time of the infringement.

27. **Absolute's Rights on Indemnity.** If legal action arises or if Absolute believes that the use of Absolute Technology is likely to be subject to legal action for which Absolute has an indemnity obligation under Section 26, Absolute may, at its option and expense, (i) obtain a license permitting you to continue to use the Service and the Absolute Technology, (ii) replace or modify the Absolute Technology so that it is no longer infringing, or (iii) if Absolute does not consider (i) or (ii) to be commercially feasible, terminate this Agreement with no further liability to you except for a pro-rated refund of the fees paid by you under this Agreement representing the remainder of the unused Service Term.
28. **Limitations of Indemnity.** Notwithstanding Section 26, Absolute will not be required to defend or indemnify any Customer Indemnified Party to the extent that, the Claims and Losses or legal action, as the case may be arose from (a) your combination of the Service or Absolute Technology with software, services or products not supplied by Absolute, (b) your use of the Absolute Technology contrary to the Product Documentation, (c) any repair or modification to the Absolute Technology carried out by you or any third party other than an Authorized Third Party, (d) any breach by you of any provision of this Agreement, or (e) any refusal by you to install and use a non-infringing version of the Service and the Absolute Technology offered by Absolute under Sections 23 or 27.
29. **Notice of Legal Action.** A party indemnified under the specific provisions of this Agreement (a) will give prompt written notice of any legal action to the indemnifying party, not more than thirty (30) days after its first knowledge of that legal action, whether actually initiated or threatened, (b) will give to the indemnifying party the sole control of the defence of any legal action, (c) will, at the indemnified party's cost, give the indemnifying party any assistance that the indemnifying party may reasonably request to defend or settle any legal action, and (d) will not settle or compromise any legal action without the express prior written consent of the indemnifying party. Any indemnified party's material failure to comply with this Section 29 will relieve the indemnifying party of its obligation to defend and indemnify the indemnified party.
30. **Disclaimers and Limitations of Liability.** NONE OF ABSOLUTE, ITS AFFILIATES OR THE AUTHORIZED THIRD PARTIES WILL BE LIABLE UNDER THIS AGREEMENT TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL CLAIMS AND LOSSES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA OR COMPUTER TIME, LOSS OF BUSINESS PROFITS OR BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR ANY OTHER PECUNIARY LOSS) OR ANY OTHER SIMILAR DAMAGES UNDER

ANY THEORY OF LIABILITY WHATSOEVER (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY), EVEN IF ABSOLUTE HAS BEEN INFORMED OF THE POSSIBILITY THEREOF AND EVEN IF ABSOLUTE could have reasonably foreseen THEM. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF SUCH DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH A CASE, ABSOLUTE'S LIABILITY TO YOU IS LIMITED TO THE AMOUNT OF SERVICE FEES ACTUALLY PAID BY YOU ATTRIBUTABLE, ON A PRO-RATED BASIS, TO THE PRECEDING TWELVE (12) MONTHS OF THE APPLICABLE SERVICE TERM(S). THE AGGREGATE LIABILITY OF ABSOLUTE, ITS AFFILIATES AND ITS AUTHORIZED THIRD PARTIES FOR ANY AND ALL DIRECT CLAIMS AND LOSSES ARISING OUT OF OR RELATED TO THIS AGREEMENT (EXCLUDING ABSOLUTE'S LIABILITY TO YOU UNDER SECTION 20) WILL NOT EXCEED THE AMOUNT OF THE SERVICE FEES ACTUALLY PAID BY YOU ATTRIBUTABLE, ON A PRO-RATED BASIS, TO THE PRECEDING TWELVE (12) MONTHS OF THE APPLICABLE SERVICE TERM(S). WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ABSOLUTE EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY DAMAGE, WHETHER DIRECT OR INDIRECT, CAUSED BY YOUR LAUNCH OR USE OF A SERVICE FEATURE. BY AUTHORIZING A FEATURE OR OPERATION OF THE SERVICE, YOU ARE HEREBY RELEASING ABSOLUTE AND THE ABSOLUTE ENTITIES FROM ANY CLAIMS AND LOSSES ASSOCIATED WITH THE USE OR LAUNCH OF SUCH FEATURE (INCLUDING ANY UNSUCCESSFUL CANCELLATION OF THE LAUNCH OF A FEATURE OR OPERATION). THE PARTIES CONFIRM THAT NO AMOUNT OF FEES PAID, IF ANY, ARE ATTRIBUTABLE TO ANY EVALUATION PERIOD, AND FURTHER AGREE THAT WHEN CALCULATING THE PRO RATA AMOUNTS ATTRIBUTABLE TO A SERVICE TERM ABOVE, IT WILL BE CALCULATED BY TAKING (A) THE AGGREGATE AMOUNT PAID FOR SUCH SERVICE TERM AND MULTIPLYING IT BY (B) THE PERCENTAGE OF THE TOTAL SERVICE TERM REPRESENTED BY THE NUMBER OF APPLICABLE MONTHS FOR WHICH THE CALCULATION IS BEING MADE.

31. **Severability.** If any term or provision of this Agreement will be found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same will not affect the other terms or provisions hereof or the whole of this Agreement, but such terms or provisions will be deemed modified to the extent necessary in the court's opinion to render such terms or provisions enforceable, and the rights and obligations of the parties will be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
32. **Injunctive Relief.** Each party acknowledges and agrees that a breach by it of the provisions of this Agreement relating to Confidential Information, Intellectual Property Rights, or restrictive obligations may result in immediate and irreparable harm to the other party for which compensation would be an inadequate remedy. Accordingly, each party acknowledges and agrees that the other party may seek, as a matter of right and without the necessity of establishing the inadequacy of monetary damages, injunctive or other equitable relief to prevent or remedy such conduct from any court of appropriate jurisdiction.

33. **Waiver.** Either party's failure to exercise a right available to it by reason of the other party's breach will be taken as an isolated instance and will not be deemed to be a permanent waiver of such right.
34. **Force Majeure.** Absolute will not be liable by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, riots, insurrections, fires, floods, storms, explosions, earthquakes, other natural disasters, outage or malfunction of telecommunications services, war, governmental action, or any similar cause that is beyond its reasonable control.
35. **Notice.** Any notice, request, authorization, direction, form or other communication to you from Absolute or to Absolute from you under this Agreement will be given in writing and be delivered to the intended recipient by e-mail as follows: (a) in your case, to the e-mail address you specified when you installed and registered for the Service and (b) in Absolute's case, to the contact coordinates expressly set out in the relevant Section of this Agreement or Online via Global Support or the Customer Center, and, if not so set out, to the attention of Absolute's Legal Department at the following address: c/o Absolute Software Corporation, Suite 1600, Four Bentall Centre, 1055 Dunsmuir Street, Vancouver, BC, Canada V7X 1K8 (e-mail: LegalNotices@absolute.com, fax: 604-730-2621). Notices by email will be deemed given and received on the transmission date of the e-mail.
36. **Interpretation.** In this Agreement, unless expressly stated otherwise or the context otherwise requires, (a) headings and captions are for convenience only and will not be deemed to explain, limit or amplify the provisions hereof, (b) a reference to a "**Section**" is to a numbered or lettered section of this Agreement, (c) the word "**including**", when following a general statement or term, is not to be construed as limiting the general statement or term (whether or not used in connection with phrases such as "without limitation" or "but not limited to") and the word "**or**", when connecting two or more matters, will not imply an exclusive relationship between the matters, (d) a reference to a "**person**" or "**entity**" means an individual, corporation, body corporate, firm, limited liability company, partnership, syndicate, joint venture, society, association, trust or unincorporated organization or governmental authority or trustee, executor, administrator or other legal representative, including any successor to that person, (e) a word importing the masculine gender includes the feminine and neuter, a word in the singular includes the plural, a word importing a corporate entity includes an individual, and vice versa, (f) words, phrases and acronyms not otherwise defined herein that have a meaning commonly understood and accepted by persons familiar with the Internet and computing services professionals will be interpreted and understood to have that meaning herein, (g) all references to currency mean currency of the United States of America and (h) in the event of any necessary conflict or inconsistency between the terms of this Agreement and the terms of any Schedule hereto or Order, the terms of this Agreement will prevail to the extent necessary to resolve such conflict or inconsistency.
37. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of British Columbia without reference to its principles of conflict of laws and the courts of such applicable countries or regions will have exclusive jurisdiction over disputes as described therein. In any such proceedings, each of the parties hereby knowingly and willingly waives and surrenders such party's right to trial by jury and agrees that such litigation shall be tried by a judge sitting alone as the trier of both fact and law, in a bench trial, without a jury. The parties agree that this Agreement shall not be governed by

any codification of Article 2, 2A or 2B of the Uniform Commercial Code or any reference to the United Nations Convention on Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act (UCITA).

38. **Export Control.** You will not knowingly export or re-export, directly or indirectly, any product, including software, received from Absolute or any Authorized Third Party under this Agreement or any direct product of such product to any destination to which such export or re-export is restricted or prohibited by Applicable Laws, without obtaining prior written authorization from the competent government authorities as required by those laws. Absolute, on behalf of itself and the Absolute Entities, makes no representation that the Service is appropriate or available for use in any specific country or region. You are not using and will not use any of the Absolute Technology, nor any information acquired through the use of the Service, for military or quasi-military projects, unless specifically authorized by the United States, Canadian or Australian government or the appropriate European body for such purposes. Note that Software containing encryption may be subject to additional restrictions.
39. **Entire Agreement.** This Agreement, together with the applicable Schedules hereto, constitutes the entire agreement between us pertaining to the matters herein set forth and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. Neither you nor Absolute will be bound or charged with, and neither you nor Absolute has relied upon, any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this Agreement or explicitly referred to herein. This Agreement may not be modified or amended except pursuant to Section 41 or by written amendment signed by both parties.
40. **Translations.** Where Absolute has provided you with a translation of the English language version of this Agreement, then you agree that the translation is provided for your convenience only and that the English language version of this Agreement will govern your relationship with Absolute. If there is any conflict, contradiction or inconsistency between the English language version of this Agreement and any translation, the English language version shall take precedence to the extent necessary to resolve it.
41. **Amendments.** You agree that Absolute may change this Agreement at any time without notice, but if Absolute makes a material change to this Agreement, it will notify you Online at least thirty (30) days before the change takes place. You are responsible for regularly checking Online for changes to this Agreement. If you do not agree to any change, you must cancel and stop using the Service before the change takes place. If you do not stop using the Service, your continued use will be deemed to be acceptance of the change.
42. **Assignment; Change in Control.** This Agreement may not be assigned by you without the prior written approval of Absolute, but may be assigned without your consent by Absolute to (i) an Affiliate of Absolute, (ii) an acquirer of all or substantially all of Absolute's assets, or (iii) Absolute's successor by merger, amalgamation, wind-up or other similar corporate reorganization. Any purported assignment in violation of this Section will be void. If there occurs any actual or proposed change in control of you that results or would result in a direct competitor of Absolute directly or indirectly owning or controlling 50% or more of

- you, Absolute may terminate this Agreement for cause immediately upon written notice and will have no obligation for any refund of fees in connection therewith.
43. **Survival.** Without limiting the applicability of other terms and conditions of this Agreement, the terms of this Agreement that, by their nature, are intended to survive any purported or actual termination or expiry of this Agreement shall so survive, including Sections 2, 7(b), 11, 12, 14, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, and 31 through 43 (inclusive), and all additional terms and conditions necessary for the correct interpretation of the foregoing.

## SCHEDULE I

### DEFINITIONS

**"Absolute Entities"** means, collectively, Absolute, all its Affiliates, Absolute's Authorized Third Parties, and their respective directors, officers, employees, consultants, agents, suppliers, distributors.

**"Absolute Technology"** means all of Absolute's proprietary technology made available to you by Absolute in the course of providing the Service, including the Computrace® technology, LoJack for Laptops® technology, Client Software, the Agent, the Content and other online, offline or client software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information.

**"Affiliate"** of a party means any present or future entity that, directly or indirectly including through one or more intermediaries, controls, is controlled by or is under common control of or with such party, and for the purposes of this Agreement, such control exists where (a) securities of one entity to which are attached more than fifty per cent (50%) of the votes that may be cast to elect directors of the entity are held, other than by way of a security interest only, by or for the benefit of the other entity and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the other entity, or (b) one entity has the ability through contract or otherwise to direct the affairs of the other entity.

**"Agent"** is a type of Client Software installed in the Customer Device that communicates with Absolute's Monitoring Center to transmit data required for Absolute to perform the Service via the Customer Device's Internet connection or direct dial modem, and includes the Computrace® Agent and LoJack for Laptops® Agent.

**"Android"** means the Android™ mobile technology platform provided by Google Inc.

**"Applicable Laws"** includes all local, state, national and foreign laws, treaties and regulations applicable to you, the place to where Absolute directs the Service, or Absolute, including those related to data privacy, international communications and the transmission or interception of technical or personal data.

**"Authorized Third Parties"** are those third parties explicitly authorized by Absolute.

**"Claims and Losses"** means any and all liabilities, actions, proceedings, claims, causes of action, demands, debts, losses, damages, charges and costs, including reasonable legal costs,

any amount paid to settle any action or to satisfy a judgment and expenses of any kind and character whatsoever.

**"Client Software"** means any offline or client software components of the Absolute Technology, including without limitation the Agent, and all Updates and Upgrades (if agreed to be provided to you in your Orders) thereto.

**"Computrace Best Practices"** refers to the methods documented by Absolute Online that you must follow in order to (i) properly install the Client Software on the Customer Device, (ii) ensure that the Agent remains installed on the Customer Device, and (iii) ensure that the Customer Device is automatically communicating with the Monitoring Center on a regular basis.

**"Confidential Information"**, for which there is a **"disclosing party"** (from or on behalf of whom Confidential Information is disclosed) and a **"receiving party"** (to whom Confidential Information is disclosed) means any information that the receiving party knows or has reason to know is the confidential or proprietary information of the disclosing party including, without limitation, the following information: technical and business information relating to inventions or products, research and development information, production manufacturing and engineering processes, costs, profit or margin information, employee skills and salaries, finances, customers, marketing, and production and future business plans.

**"Content"** means the audio and visual information, documents (including the Product Documentation), software, products, services and other materials contained or made available to you by Absolute in the course of using the Service.

**"Customer Device"** means the unique and specific customer computing device for which you have (a) installed the Client Software on the computing device, and (b) ensured the registration of the computing device and the ESN for the computing device with Absolute, and for greater certainty a Customer Device may only be a computing or Internet-enabled device expressly supported by Absolute.

**"Customer Indemnified Parties"** means you and your Affiliates, directors, officers, employees, consultants and agents.

**"Global Support"** means the customer support options from time to time available Online by clicking on the "Support" link.

**"Data Delete Operation"** means an operation launched by you by which you remotely permanently delete all or some of the data, software, and possibly the operating system, from a Customer Device.

**"Deliverables"** means the deliverables to be delivered in accordance with a Professional Services Statement of Work or in accordance with a fixed, standard package of Professional Services.

**"ESN"** means the serial number electronically assigned to a Customer Device, which may include some or all of the unique physical serial number of the Customer Device.

**"Intel AT"** means Intel® Anti-Theft Technology, which includes a locking solution that enables locking of a device at the chip level upon activation by the end user.

**"Intellectual Property Rights"** means any and all (i) proprietary rights provided under patent law, copyright law, trade-mark law, design patent or industrial design law, semi-conductor chip or mask work law, or any other applicable statutory provision or otherwise arising at law or in equity anywhere in the world, including, without limitation, trade secret law, that may provide a right in works, software, source code, object code, marks, ideas, formulae, algorithms, concepts, methodologies, techniques, inventions, or know-how, or the expression or use thereof, (ii) applications, registrations, licenses, sublicenses, agreements, or any other evidence of a right in any of the foregoing, and (iii) past, present, and future causes of action, rights of recovery, claims for damage, accounting for profits, royalties, or other relief relating, referring, or pertaining to any of the foregoing.

**"Locking Operation"** means an operation launched by you, or automatically by the Absolute Technology or your Customer Device, by which your Customer Device is locked or "bricked", or by which your Customer Device is frozen or access to your Customer Device is limited, encrypted or restricted, without further authentication, whether such feature works in conjunction with technology built into the Customer Device and the Absolute Technology or in conjunction with the Absolute Technology alone.

**"LoJack for Laptops® Best Practices"** refers to the methods documented by Absolute Online that you must follow in order to (i) properly install the Client Software on the Customer Device, (ii) ensure that the Agent remains installed on the Customer Device, and (iii) ensure that the Customer Device is automatically communicating with the Monitoring Center on a regular basis.

**"Monitoring Center"** means the monitoring center available Online and maintained and operated by Absolute to communicate with the Client Software.

**"Official Report"** means an official police report or any other form required by the law enforcement authority required to report the theft or loss of your device.

**"Online"** means online, as updated from time to time by Absolute, through Absolute's website located at <http://www.absolute.com> and <http://www.lojackforlaptops.com>, as the case may be, or such other location as may be notified by Absolute to you from time to time.

**"OPoP"** means your original proof of purchase price (before taxes and excluding accessories and software) as it relates to the Service Guarantee.

**"Order"** means the initial or any subsequent subscription for the Service submitted Online or in written form to Absolute, the applicable Absolute Affiliate, original equipment manufacturer or authorized Absolute reseller for your country or region specifying, among other things, the number of Customer Devices and their Service Term, the specific edition of the Service subscribed for, the applicable fees, pricing and payment details, subject to Section 10.

**"Owner"** means You and "Owner's" means Your.

**"Post-Theft Data"** means data generated by the Customer Device after the loss of a Customer Device and during a Theft Recovery, including data created and stored by users having possession of or access to the Customer Device after its loss and data that is accessed or modified by such users. Post-Theft Data includes, without limitation, information obtained by Absolute and its Authorized Third Parties by utilizing any and all of its theft recovery tools in order to recover the Owner's Customer Device(s) to the extent permitted by Applicable Laws.

**"Privacy Policy"** means Absolute's privacy policy available Online.

**"Proceedings"** means any actual or threatened civil, criminal or administrative action or proceedings.

**"Product Documentation"** means the end user manual and other documentation (including print and Online), if any, applicable to the Service you have purchased.

**"Professional Services"** means the services we agree to provide to you, more particularly described in a signed Statement of Work between you and Absolute or an Absolute authorized reseller, and may also include Training Services.

**"Recover", "Recovered" or "Recovery"** means the Customer Device has been located and returned to you, or is in the process of being delivered to you, or is either in possession of, or in the process of being collected by or actively tracked by, law enforcement.

**"Restricted Loss"** means the theft or loss of a Customer Device where any of the following is true:

(a) the theft or loss was materially facilitated by your criminal acts, gross negligence or wilful misconduct when securing the Customer Device in question, or the repeated theft or loss of Customer Devices demonstrates a pattern of any such criminal, negligent or wilful activity,

(b) the law enforcement authority in the jurisdiction in which the Customer Device went missing does not consider the theft or loss to be a criminal act, or

(c) the theft or loss of your Customer Device was intentional, or was part of a Theft Detection Program, or you fail to fully complete the Theft Report form.

**"Security Administrator"** means a person whom you have authorized to launch a feature or operation on a Customer Device and who (i) has been previously identified as such in a Security Authorization Form, (ii) where applicable, possesses the RSA SecurID® key-chain token required to launch a feature, and (iii) you have given administrator level login privileges to the Customer Center.

**"Service"** means any of the specific editions of Absolute's online computer security and tracking service, or other services identified during the ordering process, developed, operated, and maintained by Absolute, accessible Online, or ancillary online or offline products and services provided to you by Absolute (excluding Professional Services), to which you are being granted access under this Agreement.

**"Service Guarantee"** means a limited warranty for Absolute's Theft Recovery Services.

**"Service Term"** means the period of time beginning on the date you purchased the Service and ending upon completion of such period as is indicated in the applicable Order. A Service Term cannot exceed five (5) years. If you renew the Service, the renewal Service Term will be the period of time beginning on the date you renewed the Service and ending upon completion of such period, as is indicated in the applicable Order.

**“Statement of Work”** means any written document dated and signed by you and Absolute that specifies the Professional Services (including the Deliverables) to be delivered by Absolute to you.

**“System Problems”** means problems associated with third-party products or causes or your Technical Environment or data.

**“Technical Environment”** means certain third party hardware, operating system and software components.

**“Theft Date”** means the first date on which you became aware of the loss or theft, or could reasonably be expected to discover the loss or theft, of a Customer Device.

**“Theft Detection Program”** means any intentional loss or investigative program or operation, instigated, orchestrated, contributed to or carried out by you with or without the assistance of law enforcement, where the purpose of such operation in whole or in part is to attract theft or loss for the purpose of identifying or apprehending thieves or other wrongdoers.

**“Theft Recovery”** means Absolute’s standard computer recovery services feature, as may be revised from time to time by Absolute.

**“Theft Recovery Territory”** means any region or country, except where:

a) Online, Absolute has indicated such region or country as being excluded, or

b) in Absolute’s sole discretion, such region or country is not a region or country in which (i) the culture, customs and actual governance include an adherence to the rule of law, (ii) there are presently governmental resources that are reasonably required to enforce the laws therein, (iii) the infrastructure supports unimpeded transmission of the data required for tracking and recovery purposes, (iv) tracking and investigative activities are not prohibited by Applicable Laws, and (v) in the case of the Customer Device moving between multiple jurisdictions, the policing bodies of both jurisdictions collaborate in the enforcement of their respective property laws.

**“Theft Report”** means the form provided by Absolute and available to you either by (a) logging into your applicable customer account Online, or (b) requesting the form to be mailed to you by using the contact information available through Global Support.

**“Theft Report Date”** means the date of actual receipt by Absolute of a fully-completed Theft Report (including details of the Official Report).

**“Third Party Software”** means programs owned by third parties that may be delivered or made available to you as part of the Services, including those listed as third party software Online.

**“Training Services”** mean training services offered by Absolute from time to time through per-seat, pre-paid sums known as “training credits”, which may be purchased from Absolute and which expire after a period of time.

“**Update**” means a release of the Absolute Technology that includes a feature change, minor increased functionality or minor improvements (including bug fixes) to the Absolute Technology.

“**Upgrade**” means a release of the Absolute Technology that includes an additional service feature or significant improvements being added to the Absolute Technology, and, typically, Upgrades will be those designated by Absolute as a change in the version number, being the number to the left of the decimal point in the Absolute Technology version number.

## APPENDIX “A”

### THEFT RECOVERY SERVICES

If your purchased Service edition includes a Theft Recovery feature, you acknowledge that Absolute relies upon law enforcement cooperation to carry out Recoveries, and that applicable law enforcement agencies may require your attendance in any criminal proceeding arising from the Theft Report. In addition, you hereby agree to the following terms and conditions which shall form part of this Agreement:

1. **Consent.** You hereby consent, instruct, permit and authorize Absolute and its Authorized Third Parties coordinating with local law enforcement officials to recover your Customer Device, and, by filing a Theft Report in respect of the loss or theft of a Customer Device, you authorize and permit Absolute and its Authorized Third Parties to (i) in Absolute’s discretion, initiate, activate, de-activate or cancel Locking Operations, if available, in order to assist with the Theft Recovery process, (ii) access Post-Theft Data on the Customer Device solely for the purpose of performing the Theft Recovery, where any such Post-Theft Data will be stored on a secure server and will only be divulged to police investigators or official prosecutors involved in the investigation or prosecution of the criminal offence related to the loss of the Customer Device, and (iii) transfer any data gathered in the course of a Theft Recovery (including Post-Theft Data) to the applicable criminal justice system, including law enforcement personnel, prosecutors and courts, and acknowledge that such data in connection with a Theft Recovery will be made available to you only at the discretion of these criminal justice system entities.
2. **No Theft Recovery Outside of Territory.** The Theft Recovery feature is available only in the Theft Recovery Territory. If the contact from the Customer Device to the Monitoring Center after the Theft Report Date (as set out below) originates from outside of the Theft Recovery Territory, the Theft Recovery feature is no longer available and is replaced by the Data Delete Operation or Locking Operation, and a successful launch of a Data Delete Operation or Locking Operation (of any type) or your decision not to launch a Data Delete Operation or Locking Operation fulfills any applicable Theft Recovery obligation and Service Guarantee.
3. **Use of Recovered Information.** You acknowledge and agree that information or data recovered from the Customer Device and relevant to the Recovery of the Customer Device may be disclosed to Absolute theft recovery personnel, Authorized Third Parties or the applicable law enforcement officials without further notification or consent.

4. **Obligations for Theft Recovery.** Upon your activation of the Theft Recovery feature in accordance with this Agreement, Absolute or its Authorized Third Parties will use commercially reasonable efforts to locate and Recover the missing Customer Device and you agree to fully cooperate with such efforts. If you have purchased a Service with a limited Theft Recovery feature, the pursuit of any Theft Recovery to the limits of that particular limited Theft Recovery feature will fulfill any applicable obligation of Absolute, including any Service Guarantee. From time to time you will be informed of the status of the effort to Recover your Customer Device through e-mail or online through the Customer Center. You further agree that Absolute will only have an obligation to actively pursue a Theft Recovery for a period of one year from the Theft Report Date (as set out below) or the date upon which you execute a Data Delete Operation or Locking Operation, whichever is earlier.

5. **Theft Recovery Activation.** You acknowledge that Absolute's chances of Recovery increase as the Theft Report Date gets closer to the Theft Date. Accordingly, in order to activate the Theft Recovery feature, you must as quickly as possible but in any event no later than fourteen (14) days after the Theft Date, you must

(a) report the Customer Device as missing or stolen to the law enforcement authority in the jurisdiction in which the Customer Device was missing or stolen within fourteen (14) days of the Theft Date by completing and submitting an Official Report to such authority;

(b) obtain a record or identifying number (such as the police or other file number) of the Official Report, and at the request of Absolute a copy of the Official Report; and

(c) duly complete and submit a Theft Report to Absolute, ensuring that such Theft Report contains such details of the Official Report as are required by Absolute.

6. **Absolute Must Receive All Materials.** For the purposes of this Agreement, the date of actual receipt by Absolute of a fully-completed Theft Report (including details of the Official Report) will be considered the Theft Report Date.

7. **Limitations.** Despite any Theft Recovery feature or Service Guarantee available to you through the Service, you acknowledge and agree that Absolute's or any Authorized Third Party's obligation and ability to successfully Recover any Customer Device will be substantially and materially reduced if, and Absolute provides no Service Guarantee if:

(a) the theft or loss of your Customer Device is a Restricted Loss;

(b) the Customer Device is an Android device that is not capable of supporting persistence for the edition of the Service purchased by you or on which persistence was not enabled at the time of the loss or theft. A list of devices that are capable of supporting persistence is available from Absolute or Online; or

(c) if the Customer Device is an Android device, you obtained root access to the operating system or “rooted” the Customer Device prior to the time of the loss or theft.

8. **Theft Recovery Preventions and Other Features.** You acknowledge and agree that:

(a) Theft Recovery features may be limited or unavailable when a Locking Operation has been activated, and if you have activated a Theft Recovery feature at any time when the timer for a Locking Operation has been started, the Theft Recovery may be hindered by the expiry of such timer if the applicable Customer Device does not contact the Monitoring Center before it expires,

(b) by activating the Theft Recovery feature, you thereby authorize Absolute to reset or remove the timer from such Locking Operation, and in the event you hinder the ability of Absolute to reset or remove the timer, then all applicable obligations and Service Guarantees of Absolute will be deemed satisfied,

(c) Theft Recovery features may be limited or unavailable when a Data Delete feature has been launched or activated,

(d) Theft Recovery features may be ceased by Absolute, and all applicable obligations and Service Guarantees of Absolute will be deemed satisfied, upon the launch of the “Full Data Delete Including the Operating System” feature as described Online and in the Product Documentation,

(e) you may not transfer the Service Term in respect of a Customer Device between the period commencing on the earlier of (i) the Theft Date and (ii) 30 days before the date of theft or loss reported on a Theft Report, and ending when such Customer Device is returned to your possession or Recovered, and

(f) Recovery of every Customer Device cannot be guaranteed. Without limiting the generality of the foregoing, as Absolute and its Authorized Third Parties will only coordinate Recoveries in a Theft Recovery Territory, no guarantee or warranty is provided with respect to the operation of the Absolute Technology, or the ability to recover a computer using the Absolute Technology, if the computer is located or moved outside of the Theft Recovery Territory.

## APPENDIX “B”

### SERVICE GUARANTEE

If you have purchased an edition of the Service that includes a Service Guarantee, you hereby agree to the following terms and definitions which shall form part of this Agreement:

1. **Service Guarantee Availability.** Service Guarantees are only available in respect of specific editions of the Service; please refer to your Order to

determine whether your edition of the Service includes a Service Guarantee.

**THIS SERVICE GUARANTEE IS VOID WHERE PROHIBITED BY LAW.**

2. **Service Guarantee Period.** The Service Guarantee Period means the period after the Theft Report Date within which Absolute guarantees that it will either Recover a Customer Device or successfully facilitate the launch of a Locking Operation or a Data Delete Operation (of any type). Your Service Guarantee Period will commence on the Theft Report Date and will end sixty (60) days after the Theft Report Date.
3. **Service Guarantee Territory.** Service Guarantee Territory means the following regions or countries: United States of America, Canada, Australia, the United Kingdom and any other country specifically identified by Absolute Online as a Service Guarantee Territory.
4. **Limitations of Service Guarantees.** YOU ACKNOWLEDGE AND AGREE THAT (I) ANY SERVICE GUARANTEE IS INTENDED AS A PRE-DETERMINED, PRE-AGREED ESTIMATE OF AND LIMIT ON DAMAGES PAYABLE BY ABSOLUTE IN THE CASE OF BREACH BY ABSOLUTE OF THE SPECIFIC LIMITED WARRANTIES ON THE PERFORMANCE OF CERTAIN FEATURES OF THE SERVICE AS DESCRIBED HEREIN, (II) ABSOLUTE HAS HEREBY ADVISED YOU THAT THE LIMITATION OF LIABILITY SET BY ANY SUCH SERVICE GUARANTEE WAS AND IS AN EXPRESS PART OF THE BARGAIN BETWEEN THE PARTIES AND WAS A CONTROLLING FACTOR IN THE SETTING OF THE FEES PAYABLE FOR THE SERVICE, AND (III) ANY SUCH SERVICE GUARANTEE IS NOT AN INSURANCE PRODUCT, AND ABSOLUTE IS IN NO WAY INSURING YOUR CUSTOMER DEVICE AGAINST LOSS OR THEFT. OTHER THAN THROUGH APPLICABLE SERVICE GUARANTEES, AND AS OTHERWISE SET FORTH IN THIS AGREEMENT, ABSOLUTE DOES NOT GUARANTEE, AND MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING, ITS PERFORMANCE OF THE SERVICE WITH RESPECT TO ANY CUSTOMER DEVICE.
5. **Successful Theft Recovery, Locking Operation or Data Delete Operation.** If, within a Service Guarantee Period, a successful Theft Recovery, or the successful launch of a Locking Operation or Data Delete Operation (of any type) has taken place on the Customer Device in question, the applicable Service Guarantee will be deemed to have been fulfilled and you will not be eligible for a Service Guarantee Payment.
6. **Continued Attempts.** Even if the Service Guarantee Period has expired or a Service Guarantee Payment has been paid, for a maximum of one (1) year from such expiry, Absolute may (in its sole discretion) use commercially reasonable efforts to continue to monitor and attempt Recovery of, or facilitate a successful Data Delete Operation or Locking Operation on, the stolen Customer Device.
7. **Claims for Service Guarantees.** In order to qualify to receive any Service Guarantee Payment, in addition to meeting the conditions set forth in this Agreement that relate specifically to the type of Service Guarantee in question, you must also fully meet the following conditions:

(a) the relevant Customer Device must have an active, paid-for Service Term (at the time of its loss or theft) in respect of an edition of the Service that you have purchased which includes a Service Guarantee;

(b) the loss of the Customer Device must not have been a Restricted Loss;

(c) you must be in full compliance with your obligations under this Agreement including, without limitation, your obligation to submit a fully-completed Theft Report no later than fourteen (14) days after the Theft Date;

(d) the Customer Device must have contacted the Monitoring Center within 90 days before the Theft Date;

(e) if the Customer Device is an Android device, the Customer Device must be a device that is capable of supporting persistence for the edition of the Service purchased by you and persistence must have been enabled on the Customer Device at the time of the loss or theft. A list of devices that are capable of supporting persistence is available from Absolute or Online;

(f) if the Customer Device is an Android device, you must not have obtained root access to the operating system or "rooted" the Customer Device prior to the time of the loss or theft;

(g) you must not have transferred the Service Term containing the Theft Recovery feature to the Customer Device in question during the restricted periods set out in Section 8(e) above of Appendix "A";

(h) the Customer Device must have been stolen or lost (as determined reasonably by Absolute) from inside of the Service Guarantee Territory,

(i) you must not have launched or executed a service or feature on your Customer Device (for example, a Data Delete Operation or a Locking Operation whether launched manually or automatically upon the expiration of a timer) that restricts or disables the ability of your Customer Device to contact the Monitoring Center;

(j) if Intel AT is activated on the Customer Device, you must log into Customer Center and elect to de-enroll or de-activate Intel AT for that Customer Device on or before submitting a Theft Report and the Customer Device must successfully de-enroll or de-activate Intel AT so that Intel AT cannot launch a Locking Operation automatically;

(k) if you have a consumer edition of the Service, you must, no later than thirty (30) days after the applicable Service Guarantee Period has ended, duly complete and submit to Absolute via fax or email a Service Guarantee Submission form, together with (A) OPoP of the stolen Customer Device (which confirms date of purchase, price, make, model and serial number); and (B) any additional information or documentation as may be reasonably requested by Absolute;

(l) if you have a corporate edition of the Service, you must, no later than thirty (30) days after the applicable Service Guarantee Period has ended, duly complete and submit to Absolute via fax or email a Service Guarantee Submission form, together with any additional information or documentation as may be reasonably requested by Absolute; and

(m) the Customer Device must not have been flagged by Absolute as Recovered at the end of the Service Guarantee Period.

8. **Excluded Losses.** The Service Guarantee is not an insurance product. Absolute may, in its sole discretion, review your eligibility to receive Service Guarantee Payments if Absolute determines that your losses of Customer Devices, or Absolute's payment of Service Guarantee Payments, are excessive and demonstrate a pattern of gross negligence or wilful misconduct in ensuring the security of your Customer Devices. Upon making such determination, Absolute will notify you and all outstanding losses will be Restricted Losses, and any subsequent losses will be deemed to be Restricted Losses until Absolute is satisfied, in its sole discretion, that you have implemented policies, procedures and other measures to address such gross negligence or wilful misconduct.
9. **Service Guarantee Payment.** Always subject to the other provisions in this Agreement, then Absolute or an Authorized Third Party will pay to you the applicable "**Service Guarantee Payment**" to which you are entitled, if any, within thirty (30) days from receipt of the duly completed Service Guarantee Submission form, submitted in accordance with the above terms.
10. **Service Guarantee Amount.** The amount payable by Absolute or an Authorized Third Party as a Service Guarantee Payment will be based on the Theft Report Date in relation to the Service Term and will equal a percentage of the OPoP of the Customer Device up to a maximum amount, as follows:

Theft Report Date (based on year of Service Term)	Percentage of OPoP	Maximum Amount			
		\$CAD	\$USD	£AUD	£GBP
Within the First Year	90%	1,000.00	1,000.00	1,000.00	800.00
During the Second Year	80%	800.00	800.00	800.00	640.00
During the Third Year	60%	600.00	600.00	600.00	480.00
During the Fourth Year	40%	400.00	400.00	400.00	320.00
During the Fifth Year	20%	200.00	200.00	200.00	160.00

11. **OPoP Determination.** If you have a consumer edition of the Service, the actual OPoP (as set out in your original proof of purchase receipt) will be used to calculate your Service Guarantee Payment. If you have a corporate edition of the Service, the following OPoP values will be deemed: for non-Android desktop computers, Macintosh computers and laptops, US\$1,000 or CAD\$1,000 or AUD\$1,000 or GBP£800; for non-Android tablets and netbooks, US\$500 or CAD\$500 or AUD\$500 or GBP£400; and for Android devices, US\$400 or CAD\$400 or AUD\$400 or GBP£320, unless you provide us with an OPoP receipt within 30 days of the end of the applicable Service Guarantee Period, in which case the actual OPoP will be used.
12. **Currency.** The dollar amounts listed in the table above are paid out in United States Dollars if your region or country of residence is the United States, in Canadian Dollars if your region or country of residence is Canada, in Australian Dollars if your region or country of residence is Australia, and in British Sterling

Pounds if your residence is in Britain. Absolute may in its sole discretion pay an equivalent amount in the currency of its choosing with respect to countries not listed in this paragraph.

13. **Prepaid Service Guarantee Balance.** If Absolute has paid a Service Guarantee Payment in respect of a Customer Device that is later recovered within 60 days after the Service Guarantee Period for that device, Absolute may treat the amount of such Service Guarantee Payment as a prepaid Service Guarantee and deduct 100% of the amount of any prepaid Service Guarantee balance from any future Service Guarantee Payment payable by Absolute to you (whether or not, for greater certainty, for that particular Customer Device). You may find out your current prepaid Service Guarantee balance in Customer Center or Global Support.

## APPENDIX "C"

### PROFESSIONAL SERVICES

In addition to the Service, Absolute may agree to provide you Professional Services, as fixed packages of Professional Services available for purchase via an authorized Absolute reseller. The following terms and conditions will apply to any Professional Services pursuant to a fully executed Statement of Work, except as otherwise agreed by the parties in writing:

1. **Fees.** You will pay to Absolute any related Professional Services fees within 30 days after the date of Absolute's invoice, unless otherwise specified in the Statement of Work. Any other payment terms in the Statement of Work will also apply.
2. **Expenses.** You will reimburse Absolute for reasonable expenses incurred in performing the Professional Services, including travel and accommodation costs, long distance telecommunications costs, courier fees, reproduction costs, and other reasonable out-of-pocket costs. At your request, Absolute will give you copies of receipts or other customary expense documentation for expenses incurred.
3. **Overdue Payments.** Any overdue payment relating to Professional Services will bear interest at a rate of one and one-half percent (1-1/2%) per month, or nineteen and fifty-six one hundredths (19.56%) per annum, on the portion thereof that is overdue. If such interest rate is prohibited by Applicable Laws, the overdue payment shall bear interest at the highest interest rate permitted by Applicable Laws.
4. **Taxes.** Professional Services fees do not include any taxes, and you agree to pay any sales, use, value added or other taxes or import duties (other than Absolute's corporate income taxes) based on or due as a result of any amounts paid to us under this Agreement. All fees will be paid in the currency of the country or region in which the Professional Services are being performed unless otherwise specified in a Statement of Work.
5. **Start-Up Costs and Ramp-Down Costs.** Unless otherwise set forth in a Statement of Work, if you stop or postpone the projects set forth in a Statement of Work you will pay for all Professional Services rendered up to the stop or postponement date and will pay for any start up costs associated with re-activating resources to complete the subject Statement of Work and any ramp-

down costs associated with removing resources from the subject Statement of Work.

6. **Tools and Place of Work.** You will provide all supplies, facilities, materials and other things which are required to perform the Professional Services, except for those things which Absolute is required to supply as set out in the Statement of Work. You will also provide us with any access to your premises, facilities and systems which we require to perform the Professional Services.
7. **Changes.** No changes will be made to the Professional Services, the Deliverables or the Statement of Work except by a written amendment signed by you and Absolute. Any changes to the Professional Services, the Deliverables or the Statement of Work may delay completion of the Professional Services and/or increase the related fees.
8. **Acceptance.** Unless otherwise specified in a Statement of Work,

(a) following receipt of each Deliverable, you will have ten (10) days (the "Acceptance Period") to perform acceptance testing of that Deliverable in accordance with the standards and procedures set out in the Statement of Work,

(b) if the Deliverable does not pass the acceptance test, you must give Absolute written notice rejecting the Deliverable within the Acceptance Period,

(c) if you do not give Absolute written notice rejecting any Deliverable by the end of the Acceptance Period, or if you deliver written notice accepting the Deliverable, such Deliverable will be deemed accepted on that date,

(d) if you give Absolute written notice rejecting any Deliverable within the Acceptance Period, then within 30 days after receipt of your notice, Absolute will make any reasonable corrections or changes and resubmit the Deliverable to you for further acceptance testing and you will cooperate with Absolute to isolate, identify and resolve any problems in the Deliverables,

(e) upon your receipt of the corrected Deliverable, the procedure outlined in this Section until the Deliverable is accepted, subject to the remaining provisions of this Section,

(f) if Absolute reasonably determines that the inability of any Deliverable to pass acceptance testing is due to System Problems and not to any material defect in that Deliverable, Absolute and you will jointly attempt to identify the source of the System Problems and possible workarounds or solutions and, in addition to the fees and expenses for the Professional Services, you will pay Absolute for any extra work related to the System Problems at its then-current hourly rates plus disbursements, taxes and all related costs and expenses, and

(g) notwithstanding the foregoing, Deliverables in the nature of training services are deemed accepted upon delivery.

9. **Intellectual Property.** Unless otherwise set out in a Statement of Work,

(a) Professional Services provided by Absolute to you under this Agreement are not performed on a "work for hire" basis and therefore any resulting work

product (including Deliverables) will be considered Absolute Technology in which your only interest is a license to use the Deliverables in conjunction with the Service during an applicable Service Term,

(b) for greater certainty, Absolute owns and retains all title to, ownership of, and all right, title and interest (including Intellectual Property Rights) in or to any Deliverable on the same basis as it does with respect to the Service and the Absolute Technology as described in Section 18.

(c) If it is at any time determined that you own any right, title or interest (including any Intellectual Property Rights) in or to any Deliverable (other than the right to use it under the license granted by this Agreement), you will hold that right, title or interest in trust for Absolute and will, at our cost, transfer it to us at our request, and you will also waive any non-transferable Intellectual Property Rights such as moral rights.

10. **Relationship.** In providing any Professional Services and Deliverables, Absolute is acting as an independent contractor and not as your agent, partner, or joint venturer for any purpose; neither you nor we will have any right, power, or authority to act or to create any obligation, express or implied, on behalf of the other.
11. **Non-Hire.** You acknowledge that, in performing Professional Services, Absolute would be providing you with access to its Professional Services staff for a period of time, and that every member of such staff is a valuable resource to Absolute. Accordingly, you agree not to employ or solicit employment of any person who is Absolute's employee or an employee of any of its Authorized Third Parties without our prior written consent, unless the person in question has ceased to be employed by Absolute or its Authorized Third Party for a period of 90 days.
12. **Professional Services Disclaimer.** ALTHOUGH ABSOLUTE'S PROFESSIONAL SERVICES MAY INCLUDE INSTALLATION AND CONFIGURATION OF ITS CLIENT SOFTWARE ON YOUR CUSTOMER DEVICES, YOU AGREE THAT YOU ARE SOLELY AND EXCLUSIVELY RESPONSIBLE FOR THE MAINTENANCE, CONTROL, OPERATION AND SECURITY OF YOUR NETWORK SYSTEMS, INCLUDING THE RESPONSIBILITY OF MONITORING AND MAINTAINING THE CLIENT SOFTWARE ON YOUR CUSTOMER DEVICES TO ENSURE THAT IT AND THEY CONTINUE TO FUNCTION PROPERLY. YOU ALSO ACKNOWLEDGE THAT THE INTERNET IS NOT IN ITSELF A SECURE MEDIUM, MAY BE INHERENTLY UNRELIABLE AND SUBJECT TO INTERRUPTION OR DISRUPTION AND MAY BE SUBJECT TO INADVERTENT OR DELIBERATE BREACHES OF YOUR SECURITY.

# **lenovo** License Agreement

L505-0009-01 04/2007

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This Lenovo License Agreement (the "Agreement") applies to each Lenovo Software Product that You acquire, whether it is preinstalled on or included with a Lenovo hardware product, acquired separately, or downloaded by You from a Lenovo Web site or a third-party Web site approved by Lenovo. It also applies to any updates or patches to these Software Products.

This Lenovo License Agreement is available in other languages at [www.lenovo.com/license](http://www.lenovo.com/license).

Lenovo will license the Software Product to You only if You accept this Agreement. You agree to the terms of this Agreement by clicking to accept it or by installing, downloading, or using the Software Product.

If You do not agree to these terms, do not install, download, or use the Software Product(s).

- If You acquired the Software Product(s) and paid a license fee, return the Software Product to the party from whom You acquired it to obtain a refund or a credit of the amount You paid.
- If You acquired the Software Product(s) preinstalled on or provided with a Lenovo hardware product, You may continue to use the hardware product, but not the Software Product(s) covered under this Agreement.

"Software Product" includes computer software programs (whether preinstalled or provided separately) and related licensed materials such as documentation.

"You" and "Your" refer either to an individual person or to a single legal entity.

## **1. Entitlement**

You must maintain Your original dated sales transaction document, such as a receipt, invoice or similar document, as Your proof of Your right to use the Software Product. The transaction document specifies the usage level acquired. If no usage level is specified, You may install and use a single copy of the Software Product on a single hardware product. Your transaction document also provides evidence of Your eligibility for future upgrades, if any. For Software Products preinstalled on, included with, or distributed at no charge for use on a Lenovo hardware product, Your hardware product sales transaction document is also the proof of Your right to use the Software Product.

## **2. License**

The Software Product is owned by Lenovo or a Lenovo supplier, and is copyrighted and licensed, not sold. Lenovo grants You a nonexclusive license to use the Software Product when You lawfully acquire it.

You may a) use the Software Product up to the level of use specified in Your transaction document and b) make and install copies, including a backup copy, to support such use. The terms of this Agreement apply to each copy You make. You may not remove or alter any copyright notices or legends of ownership.

If You acquire the Software Product as a program upgrade, after You install the upgrade You may not use the Software Product from which You upgraded or transfer it to another party.

You will ensure that anyone who uses the Software Product (accessed either locally or remotely) does so only for Your authorized use and complies with the terms of this Agreement.

You may not a) use, copy, modify, or distribute the Software Product except as provided in this Agreement; b) reverse assemble, reverse compile, or otherwise translate the Software Product except as specifically permitted by law without the possibility of contractual waiver; or 3) sublicense, rent, or lease the Software Product.

Lenovo may terminate Your license if You fail to comply with the terms of this Agreement. If Lenovo does so, You must destroy all copies of the Software Product.

## **3. Transferability**

You may not transfer or assign the Software Product to any other party, except as permitted in this section.

Preinstalled Software Products are licensed for use only on the Lenovo hardware product on which they are preinstalled or included with and may be transferred only with that Lenovo hardware product. They may not be transferred independent of the Lenovo hardware product.

## **4. Third Party Software Components and Products**

Some Lenovo Software Products and future updates and patches may contain third party components, which may include Microsoft Windows Preinstallation Environment. These third party components are provided to You under separate terms and conditions different from this Agreement, typically found in a separate license agreement or in a README (or similarly titled) file. The third party's license terms and use restrictions will solely govern the use of such components.

Third Party Software Products provided by Lenovo may be governed by the terms of this Agreement but are usually licensed by the Third Party under its own terms and conditions. Third Party Software Products that are not licensed by Lenovo are subject solely to the terms of their accompanying license agreements.

## **5. Software Product Specifications**

The Software Product specifications and specified operating environment information may be found in documentation accompanying the Software Product, if available, such as a README or similarly titled file, or otherwise published by Lenovo.

## 6. Charges

Charges for the Software Product are based on the level of use acquired.

If You wish to increase the level of use, contact Lenovo or the party from whom You acquired the Software Product. Additional charges may apply.

If any authority imposes a duty, tax, levy or fee, excluding those based on Lenovo's net income, upon the Software Product, then You agree to pay the amount specified or supply exemption documentation. You are responsible for any personal property taxes for the Software Product from the date that You acquire it.

## 7. No Warranty

The Software Product(s) is provided to You "AS IS."

**SUBJECT TO ANY STATUTORY WARRANTIES WHICH CANNOT BE EXCLUDED, LENOVO MAKES NO WARRANTIES OR CONDITIONS, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, REGARDING THE SOFTWARE PRODUCT OR TECHNICAL SUPPORT, IF ANY.**

The exclusion also applies to any of Lenovo's developers and suppliers.

Suppliers or publishers of non-Lenovo Software Products may provide their own warranties.

Lenovo does not provide technical support, unless Lenovo specifies otherwise in writing.

## 8. Limitation of Liability

Circumstances may arise where, because of a default on Lenovo's part or other liability, You may be entitled to recover damages from Lenovo. In each such instance, regardless of the basis on which You are entitled to claim damages from Lenovo (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), except and to the extent that liability cannot be waived or limited by applicable laws, Lenovo is liable for no more than the amount of actual direct damages suffered by You, up to the amount You paid for the Software Product. This limit does not apply to damages for bodily injury (including death) and damage to real property and tangible personal property for which Lenovo is required by law to be liable.

This limit also applies to Lenovo's suppliers and resellers. It is the maximum for which Lenovo, its suppliers and resellers are collectively responsible.

**UNDER NO CIRCUMSTANCES IS LENOVO, ITS SUPPLIERS OR RESELLERS LIABLE FOR ANY OF THE FOLLOWING EVEN IF INFORMED OF THEIR POSSIBILITY: 1) THIRD PARTY CLAIMS AGAINST YOU FOR DAMAGES; 2) LOSS OF, OR DAMAGE TO, YOUR DATA; OR 3) SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES OR FOR ANY ECONOMIC CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, BUSINESS REVENUE, GOODWILL, OR ANTICIPATED SAVINGS. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.**

## 9. Consumer Rights

Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract. You may have additional consumer rights under applicable local laws, which this Agreement cannot change.

## 10. General

a) In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

b) You agree to comply with all applicable export and import laws and regulations.

c) Neither You nor Lenovo will bring a legal action under this Agreement more than two (2) years after the cause of action arose unless otherwise provided by local law without the possibility of contractual waiver or limitation.

## 11. Dispute Resolution

If You acquired the Software Product in **Cambodia, Indonesia, Philippines, Vietnam or Sri Lanka**, disputes arising out of or in connection with this Software Product shall be finally settled by arbitration held in Singapore and this Agreement shall be governed, construed and enforced in accordance with the laws of Singapore, without regard to conflict of laws. If You acquired the Software Product in **India**, disputes arising out of or in connection with this Software Product shall be finally settled by arbitration held in Bangalore, India. Arbitration in Singapore shall be held in accordance with the Arbitration Rules of Singapore International Arbitration Center ("SIAC Rules") then in effect. Arbitration in India shall be held in accordance with the laws of India then in effect. The arbitration award shall be final and binding for the parties without appeal and shall be in writing and set forth the findings of fact and the conclusions of law. All arbitration proceedings shall be conducted, including all documents presented in such proceedings, in the English language, and the English language version of this Agreement prevails over any other language version in such proceedings.

## MICROSOFT SOFTWARE LICENSE TERMS

### WINDOWS 7 PROFESSIONAL

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These license terms are an agreement between you and

- the computer manufacturer that distributes the software with the computer, or
- the software installer that distributes the software with the computer.

Please read them. They apply to the software named above, which includes the media on which you received it, if any. Printed-paper license terms, which may come with the software take the place of any on-screen license terms. These terms also apply to any Microsoft

- updates,
- supplements,
- Internet-based services, and
- support services

for this software, unless other terms accompany those items. If so, those other terms apply.

If you obtain updates or supplements directly from Microsoft, Microsoft, and not the manufacturer or installer, licenses those to you.

**By using the software, you accept these terms. If you do not accept them, do not use the software. Instead, contact the manufacturer or installer to determine its return policy. You must comply with that policy, which might limit your rights or require you to return the entire system on which the software is installed.**

**As described below, using the software also operates as your consent to the transmission of certain computer information during activation, validation and for Internet-based services.**

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**If you comply with these license terms, you have the rights below for each license you acquire.**

#### **1. OVERVIEW.**

- a. Software.** The software includes desktop operating system software. This software does not include Windows Live services. Windows Live services are available from Microsoft under a separate agreement.
- b. License Model.** The software is licensed on a per copy per computer basis. A computer is a physical hardware system with an internal storage device capable of running the software. A hardware partition or blade is considered to be a separate computer.

#### **2. INSTALLATION AND USE RIGHTS.**

- a. One Copy per Computer.** The software license is permanently assigned to the computer with which the software is distributed. That computer is the "licensed computer."

- b. Licensed Computer.** You may use the software on up to two processors on the licensed computer at one time. Unless otherwise provided in these license terms, you may not use the software on any other computer.
- c. Number of Users.** Unless otherwise provided in these license terms, only one user may use the software at a time on the licensed computer.
- d. Alternative Versions.** The software may include more than one version, such as 32-bit and 64-bit. You may use only one version at one time. If the manufacturer or installer provides you with a one-time selection between language versions, you may use only the one language version you select.

### 3. ADDITIONAL LICENSING REQUIREMENTS AND/OR USE RIGHTS.

- a. Multiplexing.** Hardware or software you use to
  - pool connections, or
  - reduce the number of devices or users that directly access or use the software(sometimes referred to as “multiplexing” or “pooling”), does not reduce the number of licenses you need.
- b. Font Components.** While the software is running, you may use its fonts to display and print content. You may only
  - embed fonts in content as permitted by the embedding restrictions in the fonts; and
  - temporarily download them to a printer or other output device to print content.
- c. Icons, Images and Sounds.** While the software is running, you may use but not share its icons, images, sounds, and media. The sample images, sounds and media provided with the software are for your non-commercial use only.
- d. Use with Virtualization Technologies.** Instead of using the software directly on the licensed computer, you may install and use the software within only one virtual (or otherwise emulated) hardware system on the licensed computer. When used in a virtualized environment, content protected by digital rights management technology, BitLocker or any full volume disk drive encryption technology may not be as secure as protected content not in a virtualized environment. You should comply with all domestic and international laws that apply to such protected content.
- e. Device Connections.** You may allow up to 20 other devices to access software installed on the licensed computer to use only File Services, Print Services, Internet Information Services and Internet Connection Sharing and Telephony Services.
- f. Remote Access Technologies** You may access and use the software installed on the licensed computer remotely from another device using remote access technologies as follows.
  - Remote Desktop. The single primary user of the licensed computer may access a session from any other device using Remote Desktop or similar technologies. A “session” means the experience of interacting with the software, directly or indirectly, through any combination of input, output and display peripherals. Other users may access a session from any device

using these technologies, if the remote device is separately licensed to run the software.

- Other Access Technologies. You may use Remote Assistance or similar technologies to share an active session.
- g. Media Center Extender.** You may have five Media Center Extender sessions (or other software or devices which provide similar functionality for a similar purpose) running at the same time to display the software user interface or content on other displays or devices.
- h. Electronic Programming Guide.** If the software includes access to an electronic programming guide service that displays customized television listings, a separate service agreement applies to the service. If you do not agree to the terms of the service agreement, you may continue to use the software, but you will not be able to use the electronic programming guide service. The service may contain advertising content and related data, which are received and stored by the software. The service is not available in all areas. Please consult the software information for instructions on accessing the service agreement.
- i. Related Media Information.** If you request related media information as part of your playback experience, the data provided to you may not be in your local language. Some countries or regions have laws and regulations which may restrict or limit your ability to access certain types of content.
- j. Worldwide Use of the Media Center.** Media Center is not designed for use in every country. For example, although the Media Center information may refer to certain features such as an electronic programming guide or provide information on how to configure a TV tuner, these features may not work in your area. Please refer to the Media Center information for a list of features that may not work in your area.

#### 4. MANDATORY ACTIVATION.

Activation associates the use of the software with a specific computer. During activation, the software will send information about the software and the computer to Microsoft. This information includes the version, language and product key of the software, the Internet protocol address of the computer, and information derived from the hardware configuration of the computer. For more information, see [go.microsoft.com/fwlink/?Linkid=104609](http://go.microsoft.com/fwlink/?Linkid=104609). By using the software, you consent to the transmission of this information. If properly licensed, you have the right to use the version of the software installed during the installation process up to the time permitted for activation. **Unless the software is activated, you have no right to use the software after the time permitted for activation.** This is to prevent its unlicensed use. **You are not permitted to bypass or circumvent activation.** If the computer is connected to the Internet, the software may automatically connect to Microsoft for activation. You can also activate the software manually by Internet or telephone. If you do so, Internet and telephone service charges may apply. Some changes to your computer components or the software may require you to reactivate the software. **The software will remind you to activate it until you do.**

#### 5. VALIDATION.

- a.** Validation verifies that the software has been activated and is properly licensed. It also verifies that no unauthorized changes have been made to the validation, licensing, or activation functions of the software. Validation may also check for certain malicious or unauthorized software related to such unauthorized changes. A validation check confirming that you are properly licensed permits you to continue to use the software, certain features of the software or to obtain additional benefits. **You are not permitted to circumvent validation.** This is to prevent

unlicensed use of the software. For more information, see [go.microsoft.com/fwlink/?Linkid=104610](http://go.microsoft.com/fwlink/?Linkid=104610).

- b.** The software will from time to time perform a validation check of the software. The check may be initiated by the software or Microsoft. To enable the activation function and validation checks, the software may from time to time require updates or additional downloads of the validation, licensing or activation functions of the software. The updates or downloads are required for the proper functioning of the software and may be downloaded and installed without further notice to you. During or after a validation check, the software may send information about the software, the computer and the results of the validation check to Microsoft. This information includes, for example, the version and product key of the software, any unauthorized changes made to the validation, licensing or activation functions of the software, any related malicious or unauthorized software found and the Internet protocol address of the computer. Microsoft does not use the information to identify or contact you. By using the software, you consent to the transmission of this information. For more information about validation and what is sent during or after a validation check, see [go.microsoft.com/fwlink/?Linkid=104611](http://go.microsoft.com/fwlink/?Linkid=104611).
- c.** If, after a validation check, the software is found to be counterfeit, improperly licensed, or a non-genuine Windows product, or if it includes unauthorized changes, then the functionality and experience of using the software will be affected. For example:

Microsoft may

- repair the software, and remove, quarantine or disable any unauthorized changes that may interfere with the proper use of the software, including circumvention of the activation or validation functions of the software; or
- check and remove malicious or unauthorized software known to be related to such unauthorized changes; or
- provide notice that the software is improperly licensed or a non-genuine Windows product;

and you may

- receive reminders to obtain a properly licensed copy of the software; or
- need to follow Microsoft's instructions to be licensed to use the software and reactivate;

and you may not be able to

- use or continue to use the software or some of the features of the software; or
- obtain certain updates or upgrades from Microsoft.

- d.** You may only obtain updates or upgrades for the software from Microsoft or authorized sources. For more information on obtaining updates from authorized sources see [go.microsoft.com/fwlink/?Linkid=104612](http://go.microsoft.com/fwlink/?Linkid=104612).

- 6. POTENTIALLY UNWANTED SOFTWARE.** If turned on, Windows Defender will search your computer for "spyware," "adware" and other potentially unwanted software. If it finds potentially unwanted software, the software will ask you if you want to ignore, disable (quarantine) or remove it. Any potentially unwanted software rated "high" or "severe," will automatically be removed after scanning unless you change the default setting. Removing or disabling potentially unwanted software

may result in

- other software on your computer ceasing to work, or
- your breaching a license to use other software on your computer.

By using this software, it is possible that you will also remove or disable software that is not potentially unwanted software.

**7. INTERNET-BASED SERVICES.** Microsoft provides Internet-based services with the software. It may change or cancel them at any time.

- a. Consent for Internet-Based Services.** The software features described below and in the Windows 7 Privacy Statement connect to Microsoft or service provider computer systems over the Internet. In some cases, you will not receive a separate notice when they connect. In some cases, you may switch off these features or not use them. For more information about these features, see the Windows 7 Privacy Statement at [go.microsoft.com/fwlink/?linkid=104604](http://go.microsoft.com/fwlink/?linkid=104604). **By using these features, you consent to the transmission of the information described below.** Microsoft does not use the information to identify or contact you.

Computer Information. The following features use Internet protocols, which send to the appropriate systems computer information, such as your Internet protocol address, the type of operating system, browser and name and version of the software you are using, and the language code of the computer where you installed the software. Microsoft uses this information to make the Internet-based services available to you.

- Plug and Play and Plug and Play Extensions. You may connect new hardware to your computer, either directly or over a network. Your computer may not have the drivers needed to communicate with that hardware. If so, the update feature of the software can obtain the correct driver from Microsoft and install it on your computer. An administrator can disable this update feature.
- Windows Update. To enable the proper functioning of the Windows Update service in the software (if you use it), updates or downloads to the Windows Update service will be required from time to time and downloaded and installed without further notice to you.
- Web Content Features. Features in the software can retrieve related content from Microsoft and provide it to you. Examples of these features are clip art, templates, online training, online assistance and Appshelp. You may choose not to use these web content features.
- Digital Certificates. The software uses digital certificates. These digital certificates confirm the identity of Internet users sending X.509 standard encrypted information. They also can be used to digitally sign files and macros, to verify the integrity and origin of the file contents. The software retrieves certificates and updates certificate revocation lists over the Internet, when available.
- Auto Root Update. The Auto Root Update feature updates the list of trusted certificate authorities. You can switch off the Auto Root Update feature.
- Windows Media Digital Rights Management. Content owners use Windows Media digital rights management technology (WMDRM) to protect their intellectual property, including copyrights. This software and third party software use WMDRM to play and copy WMDRM-protected content. If the software fails to protect the content, content owners may

ask Microsoft to revoke the software's ability to use WMDRM to play or copy protected content. Revocation does not affect other content. When you download licenses for protected content, you agree that Microsoft may include a revocation list with the licenses. Content owners may require you to upgrade WMDRM to access their content. Microsoft software that includes WMDRM will ask for your consent prior to the upgrade. If you decline an upgrade, you will not be able to access content that requires the upgrade. You may switch off WMDRM features that access the Internet. When these features are off, you can still play content for which you have a valid license.

- Windows Media Player. When you use Windows Media Player, it checks with Microsoft for
  - compatible online music services in your region; and
  - new versions of the player.

For more information, go to [go.microsoft.com/fwlink/?linkid=104605](http://go.microsoft.com/fwlink/?linkid=104605).

- Malicious Software Removal. During setup, if you select "Get important updates for installation", the software may check for and remove certain malware from your computer. "Malware" is malicious software. If the software runs, it will remove the Malware listed and updated at [www.support.microsoft.com/?kbid=890830](http://www.support.microsoft.com/?kbid=890830). During a Malware check, a report will be sent to Microsoft with specific information about Malware detected, errors, and other information about your computer. This information is used to improve the software and other Microsoft products and services. No information included in these reports will be used to identify or contact you. You may disable the software's reporting functionality by following the instructions found at [www.support.microsoft.com/?kbid=890830](http://www.support.microsoft.com/?kbid=890830). For more information read the Windows Malicious Software Removal Tool privacy statement at [go.microsoft.com/fwlink/?LinkId=113995](http://go.microsoft.com/fwlink/?LinkId=113995).
- Network Awareness. This feature determines whether a system is connected to a network by either passive monitoring of network traffic or active DNS or HTTP queries. The query only transfers standard TCP/IP or DNS information for routing purposes. You can switch off the active query feature through a registry setting.
- Windows Time Service. This service synchronizes with [time.windows.com](http://time.windows.com) once a week to provide your computer with the correct time. You can turn this feature off or choose your preferred time source within the Date and Time Control Panel applet. The connection uses the standard NTP protocol.
- IPv6 Network Address Translation (NAT) Traversal service (Teredo). This feature helps existing home Internet gateway devices transition to IPv6. IPv6 is the next generation Internet protocol. It helps enable end-to-end connectivity often needed by peer-to-peer applications. To do so, each time you start up the software the Teredo client service will attempt to locate a public Teredo Internet service. It does so by sending a query over the Internet. This query only transfers standard Domain Name Service information to determine if your computer is connected to the Internet and can locate a public Teredo service. If you
  - use an application that needs IPv6 connectivity, or
  - configure your firewall to always enable IPv6 connectivity,

Then, by default standard Internet Protocol information will be sent to the Teredo service at Microsoft at regular intervals. No other information is sent to Microsoft. You can change this

default to use non-Microsoft servers. You can also switch off this feature using a command line utility named "netsh".

- Accelerators. When you click on or move your mouse over an Accelerator, in Internet Explorer, any of the following may be sent to the service provider:
  - the title and full web address or URL of the current webpage,
  - standard computer information, and
  - any content you have selected.

If you use an Accelerator provided by Microsoft, use of the information sent is subject to the Microsoft Online Privacy Statement. This statement is available at [go.microsoft.com/fwlink/?linkid=31493](http://go.microsoft.com/fwlink/?linkid=31493). If you use an Accelerator provided by a third party, use of the information sent will be subject to the third party's privacy practices.

- Search Suggestions Service. In Internet Explorer, when you type a search query in the Instant Search box or type a question mark (?) before your search term in the Address bar, you will see search suggestions as you type (if supported by your search provider). Everything you type in the Instant Search box or in the Address bar when preceded by a question mark (?) is sent to your search provider as you type. Also, when you press Enter or click the Search button, the text in the Instant Search box or Address bar is sent to the search provider. If you use a Microsoft search provider, use of the information sent is subject to the Microsoft Online Privacy Statement. This statement is available at [go.microsoft.com/fwlink/?linkid=31493](http://go.microsoft.com/fwlink/?linkid=31493). If you use a third-party search provider, use of the information sent will be subject to the third party's privacy practices. You can turn search suggestions off at any time. To do so, use Manage Add-ons under the Tools button in Internet Explorer. For more information about the search suggestions service, see [go.microsoft.com/fwlink/?linkid=128106](http://go.microsoft.com/fwlink/?linkid=128106).
- Consent to Update Infrared Emitter/Receiver. The software may contain technology to ensure the proper functioning of the infrared emitter/receiver device shipped with certain Media Center-based products. You agree that the software may update the firmware of this computer.
- Media Center Online Promotions. If you use Media Center features of the software to access Internet-based content or other Internet-based services, such services may obtain the following information from the software to enable you to receive, accept and use certain promotional offers:
  - certain computer information, such as your Internet protocol address, the type of operating system and browser you are using, and the name and version of the software you are using,
  - the requested content, and
  - the language code of the computer where you installed the software.

Your use of the Media Center features to connect to those services serves as your consent to the collection and use of such information.

**b. Use of Information.** Microsoft may use the computer information, accelerator information,

search suggestions information, error reports, and Malware reports to improve our software and services. We may also share it with others, such as hardware and software vendors. They may use the information to improve how their products run with Microsoft software.

**c. Misuse of Internet-based Services.** You may not use these services in any way that could harm them or impair anyone else's use of them. You may not use the services to try to gain unauthorized access to any service, data, account or network by any means.

**8. SCOPE OF LICENSE.** The software is licensed, not sold. This agreement only gives you some rights to use the features included in the software edition you licensed. The manufacturer or installer and Microsoft reserve all other rights. Unless applicable law gives you more rights despite this limitation, you may use the software only as expressly permitted in this agreement. In doing so, you must comply with any technical limitations in the software that only allow you to use it in certain ways. You may not

- work around any technical limitations in the software;
- reverse engineer, decompile or disassemble the software, except and only to the extent that applicable law expressly permits, despite this limitation;
- use components of the software to run applications not running on the software;
- make more copies of the software than specified in this agreement or allowed by applicable law, despite this limitation;
- publish the software for others to copy;
- rent, lease or lend the software; or
- use the software for commercial software hosting services.

**9. MICROSOFT .NET BENCHMARK TESTING.** The software includes one or more components of the .NET Framework (".NET Components"). You may conduct internal benchmark testing of those components. You may disclose the results of any benchmark test of those components, provided that you comply with the conditions set forth at [go.microsoft.com/fwlink/?LinkID=66406](http://go.microsoft.com/fwlink/?LinkID=66406). Notwithstanding any other agreement you may have with Microsoft, if you disclose such benchmark test results, Microsoft shall have the right to disclose the results of benchmark tests it conducts of your products that compete with the applicable .NET Component, provided it complies with the same conditions set forth at [go.microsoft.com/fwlink/?LinkID=66406](http://go.microsoft.com/fwlink/?LinkID=66406).

**10. BACKUP COPY.** You may make one backup copy of the software. You may use it only to reinstall the software on the licensed computer.

**11. DOCUMENTATION.** Any person that has valid access to your computer or internal network may copy and use the documentation for your internal, reference purposes.

**12. NOT FOR RESALE SOFTWARE.** You may not sell software marked as "NFR" or "Not for Resale."

**13. GEOGRAPHIC RESTRICTIONS.** If the software is marked as requiring activation in a specific geographic region, then you are only permitted to activate this software in the geographic region indicated on the software or computer packaging. You may not be able to activate the software outside of that region. For further information on geographic restrictions, visit [go.microsoft.com/fwlink/?LinkId=141397](http://go.microsoft.com/fwlink/?LinkId=141397).

**14. UPGRADES.** To use upgrade software, you must first be licensed for the software that is eligible for the upgrade. Upon upgrade, this agreement takes the place of the agreement for the software you upgraded from. After you upgrade, you may no longer use the software you upgraded from.

**15. DOWNGRADE.** Instead of using the software, you may use one of the following earlier versions:

- Windows Vista Business,
- Microsoft Windows XP Professional,
- Microsoft Windows Professional x64 Edition, or
- Microsoft Windows XP Tablet PC Edition.

This agreement applies to your use of the earlier versions. If the earlier version includes different components, any terms for those components in the agreement that comes with the earlier version apply to your use of them. Neither the manufacturer or installer, nor Microsoft is obligated to supply earlier versions to you. You must obtain the earlier version separately. At any time, you may replace an earlier version with this version of the software.

**16. PROOF OF LICENSE.**

**a. Genuine Proof of License.** If you acquired the software on a computer, or on a disc or other media, a genuine Microsoft Certificate of Authenticity label with a genuine copy of the software identifies licensed software. To be valid, this label must be affixed to the computer or appear on the manufacturer's or installer's packaging. If you receive the label separately, it is invalid. You should keep label on the computer or the packaging that has the label on it to prove that you are licensed to use the software. If the computer comes with more than one genuine Certificate of Authenticity label, you may use each version of the software identified on those labels.

**b. Windows Anytime Upgrade License.** If you upgrade the software using Windows Anytime Upgrade, your proof of license is identified by

- the genuine Microsoft Certificate of Authenticity label for the software you upgraded from, and
- the genuine Microsoft proof of purchase label from the Windows Anytime Upgrade Kit you used to upgrade. Proof of purchase may be subject to verification by your merchant's records.

**c.** To identify genuine Microsoft software, see [www.howtotell.com](http://www.howtotell.com).

**17. TRANSFER TO A THIRD PARTY.** You may transfer the software directly to a third party only with the licensed computer. The transfer must include the software and the Certificate of Authenticity label. You may not keep any copies of the software or any earlier version. Before any permitted transfer, the other party must agree that this agreement applies to the transfer and use of the software.

**18. NOTICE ABOUT THE H.264/AVC VISUAL STANDARD, THE VC-1 VIDEO STANDARD, THE MPEG-4 VISUAL STANDARD AND THE MPEG-2 VIDEO STANDARD.** This software includes H.264/AVC, VC-1, MPEG-4 Part 2, and MPEG-2 visual compression technology. MPEG LA, L.L.C. requires this notice:

THIS PRODUCT IS LICENSED UNDER THE AVC, THE VC-1, THE MPEG-4 PART 2 VISUAL, AND THE MPEG-2 VIDEO PATENT PORTFOLIO LICENSES FOR THE PERSONAL AND NON-COMMERCIAL USE OF A CONSUMER TO (i) ENCODE VIDEO IN COMPLIANCE WITH THE ABOVE STANDARDS ("VIDEO STANDARDS") AND/OR (ii) DECODE AVC, VC-1, MPEG-4 PART 2 AND MPEG-2 VIDEO THAT WAS ENCODED BY A CONSUMER ENGAGED IN A PERSONAL AND NON-COMMERCIAL ACTIVITY OR WAS OBTAINED FROM A VIDEO PROVIDER LICENSED TO PROVIDE SUCH VIDEO. NONE OF THE LICENSES EXTEND TO ANY OTHER PRODUCT REGARDLESS OF WHETHER SUCH PRODUCT IS INCLUDED WITH THIS PRODUCT IN A SINGLE ARTICLE. NO LICENSE IS GRANTED OR SHALL BE IMPLIED FOR ANY OTHER USE. ADDITIONAL INFORMATION MAY BE OBTAINED FROM MPEG LA, L.L.C. SEE WWW.MPEGLA.COM.

- 19. THIRD PARTY PROGRAMS.** The software contains third party programs. The license terms with those programs apply to your use of them.
- 20. EXPORT RESTRICTIONS.** The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see [www.microsoft.com/exporting](http://www.microsoft.com/exporting).
- 21. SUPPORT SERVICES.** For the software generally, contact the manufacturer or installer for support options. Refer to the support number provided with the software. For updates and supplements obtained directly from Microsoft, Microsoft provides support as described at [www.support.microsoft.com/common/international.aspx](http://www.support.microsoft.com/common/international.aspx). If you are using software that is not properly licensed, you will not be entitled to receive support services.
- 22. ENTIRE AGREEMENT.** This agreement (including the warranty below), additional terms (including any printed-paper license terms that accompany the software and may modify or replace some or all of these terms), and the terms for supplements, updates, Internet-based services and support services that you use, are the entire agreement for the software and support services.
- 23. APPLICABLE LAW:**
- a. United States.** If you acquired the software in the United States, Washington state law governs the interpretation of this agreement and applies to claims for breach of it, regardless of conflict of laws principles. The laws of the state where you live govern all other claims, including claims under state consumer protection laws, unfair competition laws, and in tort.
  - b. Outside the United States.** If you acquired the software in any other country, the laws of that country apply.
- 24. LEGAL EFFECT.** This agreement describes certain legal rights. You may have other rights under the laws of your state or country. You may also have rights with respect to the party from whom you acquired the software. This agreement does not change your rights under the laws of your state or country if the laws of your state or country do not permit it to do so.
- 25. LIMITATION ON AND EXCLUSION OF DAMAGES.** Except for any refund the manufacturer or installer may provide, you cannot recover any other damages, including consequential, lost profits, special, indirect or incidental damages.

This limitation applies to

- anything related to the software, services, content (including code) on third party Internet sites, or third party programs; and

- claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort to the extent permitted by applicable law.

It also applies even if

- repair, replacement or a refund for the software does not fully compensate you for any losses; or
- Microsoft knew or should have known about the possibility of the damages.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. They also may not apply to you because your country may not allow the exclusion or limitation of incidental, consequential or other damages.

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## LIMITED WARRANTY

**A. LIMITED WARRANTY.** If you follow the instructions and the software is properly licensed, the software will perform substantially as described in the Microsoft materials that you receive in or with the software.

**B. TERM OF WARRANTY; WARRANTY RECIPIENT; LENGTH OF ANY IMPLIED WARRANTIES.** The limited warranty covers the software for 90 days after acquired by the first user. If you receive supplements, updates, or replacement software during those 90 days, they will be covered for the remainder of the warranty or 30 days, whichever is longer. If you transfer the software, the remainder of the warranty will apply to the recipient.

To the extent permitted by law, any implied warranties, guarantees or conditions last only during the term of the limited warranty. Some states do not allow limitations on how long an implied warranty lasts, so these limitations may not apply to you. They also might not apply to you because some countries may not allow limitations on how long an implied warranty, guarantee or condition lasts.

**C. EXCLUSIONS FROM WARRANTY.** This warranty does not cover problems caused by your acts (or failures to act), the acts of others, or events beyond the reasonable control of the manufacturer or installer, or Microsoft.

**D. REMEDY FOR BREACH OF WARRANTY.** The manufacturer or installer will, at its election, either (i) repair or replace the software at no charge, or (ii) accept return of the product(s) for a refund of the amount paid, if any. The manufacturer or installer may also repair or replace supplements, updates and replacement software or provide a refund of the amount you paid for them, if any. contact the manufacturer or installer about its policy. These are your only remedies for breach of the limited warranty.

**E. CONSUMER RIGHTS NOT AFFECTED.** You may have additional consumer rights under your local laws, which this agreement cannot change.

**F. WARRANTY PROCEDURES.** Contact the manufacturer or installer to find out how to obtain warranty service for the software. For a refund, you must comply with the manufacturer's or installer's return policies.

**G. NO OTHER WARRANTIES.** The limited warranty is the only direct warranty from the manufacturer or installer, or Microsoft. The manufacturer or installer and Microsoft give no other express warranties, guarantees or conditions. Where allowed by your local laws, the manufacturer or installer and Microsoft exclude implied warranties of merchantability, fitness for a particular purpose and non-infringement. If your local laws give you any implied warranties, guarantees or conditions, despite this exclusion, your remedies are described in the Remedy for Breach of Warranty clause above, to the extent permitted by your local laws.

**H. LIMITATION ON AND EXCLUSION OF DAMAGES FOR BREACH OF WARRANTY.** The Limitation on and Exclusion of Damages clause above applies to breaches of this limited warranty.

This warranty gives you specific legal rights, and you may also have other rights which vary from state to state. You may also have other rights which vary from country to

**country.**

country.



STANDARD AFFIRMATION AND DISCLOSURE FORM  
EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations, and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

By the signature affixed hereto, the Contractor affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

**1009 Think Place**  
(Address)

**Morrisville, NC 27560**  
(City, State, Zip)

Name/Principal location of business of subcontractor(s):

**International Business Machines Corporation**  
(Name)

**1 New Orchard Road Armonk NY 10504**  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

Name/Location where services will be performed by subcontractor(s):

**IBM Consolidation Center**  
(Name)

**Mexicali, Mexico**  
(Address, City, State, Zip)

**Think Call Center**  
(Name)

**Atlanta, GA**  
(Address, City, State, Zip)

**Think Repair Center**  
(Name)

**Memphis, TN**  
(Address, City, State, Zip)

**Monitor Repair Service**  
(Name)

**Cincinnati, OH**  
(Address, City, State, Zip)

**Parts logistics**  
(Name)

**Mechanicsburg, PA**  
(Address, City, State, Zip)

**OnSite Field Service**

**Performed at Customer location**

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

**International Business Machines Corporation**  
(Name)

**United States**  
(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: Lenovo (United States) Inc.  
Contractor

Sign:  \_\_\_\_\_

Print Name: Fredrick Pasquale

Title: Executive Director Lenovo Services

Date: 20 May 2013

**EXHIBIT IV  
WARRANTY SERVICE INFORMATION**

The products covered by the warranty in Section 7.3 of this Contract and the warranty service to be provided by Contractor shall be as specified in this Exhibit IV. In addition, repair, correction and replacement in the manner described in this Exhibit IV shall constitute fulfillment of all of Contractor's obligations under this warranty.

If a product does not function as warranted during the warranty period, warranty service may be obtained by contacting Contractor or a service provider approved by Contractor ("Service Provider"). A list of Service Providers and their telephone numbers is available at [www.lenovo.com/support/phone](http://www.lenovo.com/support/phone).

The parties shall reasonably cooperate on problem determination and resolution procedures as part of the warranty service.

A Service Provider will attempt to diagnose and resolve problems by telephone, e-mail or remote assistance. A Service Provider may provide directions to download and install designated software updates.

If a problem may be resolved with a replacement part that may be installed by the user ("Customer Replaceable Unit" or "CRU"); the Service Provider will ship the CRU to the user for installation.

If a problem cannot be resolved over the telephone or remotely, through the user's application of software updates or the installation of a CRU, the Service Provider will arrange for service under the type of warranty service designated for the Product under the section below entitled "Warranty Service Information."

If a Service Provider determines that it is unable to repair a product, the Service Provider will replace it with one that is new or certified as new and at least functionally equivalent. If a Service Provider determines that it is unable to either repair or replace a Product, the sole remedy shall be to return the Product to Contractor for a refund of the purchase price.

When warranty service involves the replacement of a product or part, the replaced product or part becomes the property of Contractor and the replacement product or part becomes the property of Customer. Only unaltered products and parts are eligible for replacement. The replacement product or part provided by Contractor must be new or certified as new, and it will be in good working order and at least functionally equivalent to the original product or part. The replacement product or part shall be warranted for the balance of the period remaining on the original product.

Before warranty service is provided, Customer shall:

- Follow the reasonable service request procedures specified by the Service Provider
- Backup or secure all programs and data contained in the product
- Provide the Service Provider with all system keys or passwords and sufficient, free, access to facilities to perform warranty service
- Remove all features, parts, options, alterations, and attachments not covered by warranty
- Ensure that the product or part is free of any legal restrictions that prevent its replacement
- Obtain authorization from the owner for the Service Provider to provide warranty service
- Remove all data, including confidential information, proprietary information and personal information, from the product or, if unable to remove any such information, modify the information to prevent its access by another party or so that it is not personal data under applicable law.

When service is provided under this warranty, Contractor may store, use and process information about warranty service as well as business contact information, including name, phone numbers, address, and e-mail address. Contractor may use this information solely to perform service under this warranty. Contractor may contact Customer to provide notice of product recalls or safety issues. In accomplishing these purposes, Contractor may transfer personal contact information to any country and to entities acting on behalf of Contractor. Contractor may also disclose the information where required by law.

**Warranty Service Information**

<b>Product Type</b>	<b>Warranty Period</b>	<b>Type of Warranty Service</b>
ThinkPad	One (1), Two (2), or Three (3) years based on the product selected	CRU, Depot, or Onsite based on the product selected
ThinkCenter	One (1), Two (2), or Three (3) years based on the product selected	CRU or Onsite
ThinkStation	One (1), Two (2), or Three (3) years based on the product selected	CRU or Onsite
ThinkServer	One (1), Two (2), or Three (3)	CRU or Onsite

	years based on the product selected	
ThinkVision Monitors	One (1) or Three (3) years based on the product selected	Product Exchange
Think Accessories and Options	One (1) Year	CRU
Notebook Battery	One (1) Year	CRU

If required, a Service Provider will provide repair or exchange service depending on the type of warranty service specified for the product. Scheduling of service will depend upon the time of the request for service, parts availability, and other factors.

**Types of Warranty Service**

**1. Customer Replaceable Unit (“CRU”) Service**

Under CRU Service, a Service Provider will ship CRUs to Customer for installation. CRU information and replacement instructions are shipped with the product and are available from Contractor at any time upon request. CRUs that are easily installed by Customer are known as “Self-service” CRUs. “Optional-service” CRUs may require some technical skill and tools. The installation of Self-service CRUs is the responsibility of Customer. Upon request, a Service Provider may install Optional-service CRUs under one of the other types of warranty service designated for the product. A list of CRUs and their designation is included in the materials that ship with each Product or at [www.lenovo.com/CRUs](http://www.lenovo.com/CRUs). The requirement to return a defective CRU, if any, will be specified in the materials shipped with a replacement CRU. When return is required: 1) return instructions, a prepaid return shipping label, and a container will be included with the replacement CRU; and 2) there is a charge for a replacement CRU if the Service Provider does not receive the defective CRU within thirty (30) days of Customer’s receipt of the replacement.

**2. On-Site Service**

Under On-Site Service, a Service Provider may either repair or exchange a Product at Customer’s location. A suitable working area must be made available for disassembly and reassembly of the Product. For some Products, certain repairs may require the Service Provider to send the Product to a designated service center. If so, the Service Provider will send the Product to the service center at its expense.

**3. Courier or Depot Service**

Under Courier or Depot Service, a Product will be repaired or exchanged at a designated service center, with shipping at the expense of the Service Provider. Customer is responsible for disconnecting the Product. A shipping container to return the Product to a designated service center will be provided by the Service Provider. A courier will pick up the Product and deliver it to the designated service center. Following the repair or exchange of a Product, the service center, at its expense, will arrange the return delivery of the Product to the location designated by Customer.

**4. 5. 6. Intentionally Omitted.**

**7. Product Exchange Service**

Under Product Exchange Service, the Service Provider will ship a replacement Product to Customer’s location. Customer is responsible for Product installation and verification of its operation. The replacement Product becomes Customer’s property in exchange for the failed Product, which becomes the property of the Service Provider. Customer must pack the failed Product in the shipping carton in which the replacement Product was received and return it to the Service Provider. Transportation charges, both ways, shall be at the Service Provider’s expense. If Customer fails to use the carton in which the replacement Product was received, Customer may be responsible for any damage to the failed Product which occurs during shipment. Customer may be charged for the replacement Product if the Service Provider does not receive the failed Product within thirty (30) days of Customer’s receipt of the replacement Product.