

# Enterprise Agreement Program Agreement Terms and Conditions

## State and Local

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

Effective date. *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*

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

Please note: Several documents referenced in this Program Agreement but not attached to the signature form may be found at: <http://www.microsoft.com/licensing/contracts> and are incorporated by reference, including the Product List and Product Use Rights. These documents may contain additional terms and conditions for Products licensed under this Program Agreement and may be changed from time to time in accordance with Appendix B, §40. Customer and/or its Affiliates should review such documents carefully, both at the time of signing and periodically, to ensure a full understanding of all terms and conditions applicable to Products licensed.

## Terms and Conditions

### 1. Definitions.

“Affiliate” means

- a. with regard to Customer,
  - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;

- (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
  - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates (for clarity details on other entities can located here, or a successor site: <http://www.ogs.ny.gov/purchase/snt/othersuse.asp>); and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft;

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

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

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

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

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

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

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

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

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

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

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

"Product" means all software, Online Services and other web-based services, identified on the Product List.

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

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

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

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

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

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

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

## **2. How the Enterprise and Enterprise Subscription program works.**

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

- a. Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments.
- b. Licenses.** The types of Licenses available are L&SA, Licenses obtained under Software Assurance and Subscription Licenses. These License types as well as additional License Types are defined in the Product List.
- c. How Enrolled Affiliates acquire Licenses.** An Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders will be made out to and submitted to the Enrolled Affiliate’s Reseller. Microsoft will invoice that Reseller according to the terms in the applicable Enrollment.
- d. Choosing and maintaining a Reseller.** Each Enrolled Affiliate must choose and maintain a Reseller authorized in the Enrolled Affiliate’s location.
- e. Pricing.**
  - (i) Establishing Price Levels.** Each Product generally is assigned to a Product pool (e.g. applications, systems, or servers). With the exception of Enterprise Products listed the Discount Level table below and purchased under the Enterprise Agreement only, each Product pool will be assigned Level D. Enrolled Customer Price Level will be Level D for Enterprise Online Services, Online Services and Additional Products ordered under any Enrollment.

*The following Price Level Discounts are established for 36 months after the effective date of this Program Agreement:*

<b>Enterprise Product Pools</b>	<b>Discount Level</b>
Applications (Office Pro/Office Standard)	Level D less 7.5%
System (Windows Operating System & MDOP)	Level D less 9%
Servers (Core &, Enterprise Client Access License Suites)	Level D less 9%

The Discount Levels were determined by the amount of Enrolled Affiliates desktops and/or users with Enterprise Products from the following table:

Desktop and/or User Count	Level Discount
Below 40,000	none
40,000-59,999	2.00%
60,000- 79,999	4.00%
80,000-119,000	6.00%
120,000-299,999	7.50%
300,000-499,999	9.00%

(ii) **Placing Orders through Reseller.** Orders under an Enrollment will be made to the Reseller. Microsoft will invoice the Reseller according to the terms in the applicable Enrollment. Throughout this Agreement the term “price” refers to reference price. The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate’s actual price and payment terms.

f. **Order Requirements.** Order Requirements are outlined in each Enrollment.

g. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft’s Volume Licensing Service Center (“VLSC”) web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Program Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.

### 3. **Licenses for Products.**

a. **General.** Enrolled Affiliate will have the number of Licenses ordered for the latest version of a Product, and may use prior versions as permitted in the Product Use Rights, so long as Microsoft receives timely orders from Reseller for all required Licenses for such Products and complies with applicable license terms. The Licenses obtained under an Enrollment are not related to any order or fulfillment of software media. The ability to use a Product ordered may be affected by minimum hardware or software requirements.

b. **Use by Affiliates.** The Enrolled Affiliate may sublicense the right to use the Products to any Affiliates covered under its Enrollment, but Affiliate recipient of these Licenses may not sublicense these rights and their use must be consistent with the License terms contained in this Agreement.

c. **When Licenses become perpetual.** The right to run any Product licensed under an Enrollment is temporary unless and until it becomes perpetual as follows:

(i) A License is temporary until Enrolled Affiliate’s Reseller has paid for a License in full and the applicable initial Enrollment or renewal term during which the License was ordered must have expired or been terminated as permitted in this Agreement.

(ii) Subscription Licenses are never perpetual. If a buy-out option is available, Enrolled Affiliate may obtain a perpetual License by exercising the buy-out option and paying for the License in full.

(iii) Enrolled Affiliate will have perpetual Licenses to use the Products ordered in the latest version available (or any prior version) as of the date of expiration, termination, or renewal.

(iv) All perpetual Licenses acquired under this Program Agreement remain subject to the terms of this Program Agreement and such terms survive expiration or termination of this Program Agreement or an Enrollment.

- d. **Perpetual Licenses through Software Assurance.** Perpetual Licenses received through Software Assurance supersede and replace the underlying perpetual Licenses for which Software Assurance coverage was ordered. In the case of Early Termination, the terms in Section 7 titled “Term and Termination will apply.”
- e. **License confirmation.** This Program Agreement (*soft copy or web link to location is acceptable*), the applicable Enrollment (*soft copy is acceptable*), the Enrolled Affiliate’s order confirmation, and any documentation evidencing transfers of Licenses, together with proof of payment, will be the Enrolled Affiliate’s evidence of all Licenses obtained under its Enrollment.
- f. **Reorganizations, consolidations, and privatizations.** If the number of Qualified Devices or Qualified Users covered by an Enrollment changes by more than ten percent as a result of a reorganization, consolidation, or privatization of an Enrolled Affiliate, Microsoft will work with the Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Program Agreement. If an Enrolled Affiliate consolidates with a third party with an existing Agreement or enrollment, Microsoft will work with the Enrolled Affiliate in good faith to accommodate its changed circumstances in the context of this Program Agreement.

#### **4. How to know what Product Use Rights apply.**

*Intentionally omitted, this section is included in the associated Microsoft Business Agreement*

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

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

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

## **6. Transferring and reassigning Licenses.**

- a. **License transfers.** You may transfer fully-paid perpetual Licenses:
  - (i) if you are an agency of the U.S. Government, to another agency of the U.S. Government or to an unaffiliated third party in connection with (i) a privatization of the government agency or of an operating division of an Enrolled Affiliate or one of its government agency affiliates, (ii) a reorganization, or (iii) a consolidation; or
  - (ii) if you are an agency of a state or local government to: (a) any other government agency, department, instrumentality, division, unit or other office of your state or local government that is supervised by or is part of you, or which supervises you or of which you are a part, or which is under common supervision with you; (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of your state and located within your state's jurisdiction and geographic boundaries; and (iii) any other entity expressly authorized by the laws of your state to purchase under state contracts, or (b) an unaffiliated third party in connection with a privatization of an affiliate of agency as set forth in (a) above or of an operating division of the Enrolled Affiliate or one of its affiliates as set forth in (a) above, a reorganization, or a consolidation.
- b. Customer must notify Microsoft of a transfer of license by completing a transfer notice form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and send the completed form to Microsoft before the license transfer. No License transfer will be valid unless Customer provides to the transferee, and the transferee accepts in writing, the applicable Product Use Rights, use restrictions, limitations of liability (including exclusions and warranty provisions), and the transfer restrictions described in this section. Any license transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses may be reassigned within the Enterprise as described in the Product Use Rights.

## **7. Term and termination.**

- a. **Term.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
- b. **Termination without cause.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
- c. **Mid-term termination for non-appropriation of Funds.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
- d. **Termination for cause.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*

- e. Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminate an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
- (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or
  - (ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:
    - 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
    - 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.
  - (iii) In the case of Early Termination under Subscription Enrollments, Enrolled Affiliate will have the following options:
    - 1) For eligible products Enrolled Affiliate may obtain perpetual Licenses as described in the section titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
    - 2) Where not exercising buy-out option, in the event of breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.
- Nothing in this section shall affect perpetual License rights acquired either in a separate Agreement or in a prior term of the terminated Enrollment.
- f. Effect of termination or expiration.** When an Enrollment expires or is terminated,
- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments or any order of any kind, including subscription services, remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
  - (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.
- g. Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating there; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may be in conflict with any such requirement or obligation. For example, Microsoft may modify or terminate an Online Service in connection with a government requirement that would cause Microsoft to be regulated as a telecommunications provider.

8. **Restrictions on use.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
9. **Non-Microsoft software or technology.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
10. **Confidentiality.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
11. **Warranties.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
12. **Defense of infringement, misappropriation, and third party claims.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
13. **Limitation of liability.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
14. **Verifying compliance.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement.*
15. **Miscellaneous.** *All of the following sections are intentionally omitted, and are included in the associated Microsoft Business Agreement.*
  - a. **Notices to Microsoft.**
  - b. **Assignment.**
  - c. **Severability.**
  - d. **Waiver.**
  - e. **Applicable law; Dispute resolution.**
  - f. **This Agreement is not exclusive.**
  - g. **Survival.**
  - h. **No transfer of ownership.**
  - i. **Free Products.**
  - j. **Amending the Agreement.**
  - k. **Resellers and other third parties cannot bind Microsoft.**
  - l. **Privacy and security.**
  - m. **Voluntary Product Accessibility Templates.**
  - n. **Natural disaster.**
  - o. **Copyright violation.**
  - p. **U.S. export jurisdiction.**

# Appendix F- Sample EA Enrollment



## Volume Licensing

Enterprise Enrollment number  
(Microsoft to complete)


Proposal ID/Framework ID

NY001

Previous Enrollment number  
(Reseller to complete)

Earliest expiring previous  
Enrollment end date <sup>1</sup>


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

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrollment Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) the terms and conditions of the Agreement, (2) the terms of the Enterprise Program Agreement identified on the signature form, (3) the terms and conditions of this Enrollment, (4) the Product Selection Form, (5) any supplemental contact information form or Previous Program Agreement/Enrollment form that may be required, and (6) any order submitted under this Enrollment.

**Effective date.** If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or Program Agreements, then the effective date will be the day after the first prior Enrollment or Program Agreement expires or terminates. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. If renewing Software Assurance, the Reseller will need to insert the previous enrollment or Program Agreement number and end date in the respective boxes above.

**Term.** This Enrollment will expire on the last day of the month, 36 full calendar months from the effective date unless otherwise renewed. Any reference in this Enrollment to "day" will be a calendar day.

**Product order.** The Reseller will provide Enrolled Affiliate with Enrolled Affiliate's Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Enrolled Affiliate and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

**Prior Enrollment(s).** If renewing Software Assurance or Subscription Licenses from another Enrollment or Program Agreement, the previous Enrollment or Program Agreement number and end date must be identified in the respective boxes above. If renewing from multiple Enrollments or Program Agreements, or transferring Software Assurance or MSDN details, the Previous Program Agreement/Enrollment form must be used.

## ***Terms and Conditions***

### **1. Definitions.**

Terms used but not defined in this Enrollment will have the definition in the Enterprise Program Agreement. The following definitions are used in this Enrollment:

"Additional Product" means any Product identified as such in the Product List and chosen by Enrolled Affiliate under this Enrollment.

“Enterprise Online Service” means any Online Service designated as an Enterprise Online Service in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

“Enterprise Product” means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise Products may only be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

“Expiration Date” means the date upon which the Enrollment expires.

“Industry Device” (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) (“Industry Program”). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

“Qualified Device” means any device that is used by or for the benefit of Enrolled Affiliate’s Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment), OR (2) a device used to access a virtual desktop infrastructure (“VDI”). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, OR (2) an Industry Device, OR (3) not managed (as defined in the Product List at the start of the applicable initial or renewal term of the Enrollment) as part of Enrolled Affiliate’s Enterprise. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

“Qualified User” means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product List.

“Reserved License” means for an Online Service identified as eligible for true-ups in the Product List, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

“Transition” means the conversion of one or more License to or from another License(s). Products eligible for Transition and permitted Transitions are identified in the Product List.

“Transition Period” means the time between the Transition and the next Enrollment anniversary date for which the Transition is reported.

## **2. Purpose.**

This Enrollment enables Enrolled Affiliate’s Enterprise to obtain, or subscribe to, Licenses for Enterprise Products, Enterprise Online Services, and Additional Products. Enrolled Affiliate may choose between on-premise software and Online Services as well as the ability to transition Licenses to Online Services while maintaining Enterprise-wide coverage. Additionally, Enterprise Online Services may be purchased without Enterprise-wide coverage.

### **3. Product Use Rights, Qualifying Systems Licenses and Transitions.**

In addition to applicable terms of the Enterprise Program Agreement, the following terms apply to this Enrollment:

- a. Product Use Rights.** For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to the Enrolled Affiliate's use of that Product during the term.
- b. Qualifying systems Licenses.** The operating system Licenses granted under this program is upgrade Licenses only. Full operating system Licenses are not available under this program. If Enrolled Affiliate selects any Desktop Platform, Windows Desktop Operating System Upgrade, or Windows Intune, all Qualified Devices on which Enrolled Affiliate expects to run the Windows Desktop Operating System Upgrade must be licensed to run, and have installed on them, one of the qualifying operating systems identified in the Product List. Note that the list of operating systems that qualify for the Windows Desktop Operating System Upgrade varies with the circumstances of the order. That list is more extensive at the time of the initial order than it is for some subsequent orders and system refreshes during the term of this Enrollment. Exclusions are subject to change when new versions of Windows are released.

For example: The following are not considered qualifying operating systems: (1) ANY Windows Home or Starter edition; (2) Embedded Systems; and (3) Linux. These are examples of exclusions only and may change. Please see Product List for all current qualifying operating systems.

- c. Transitions.** The following requirements apply to Transitions:
  - (i)** Licenses with active Software Assurance or Subscription Licenses may be Transitioned at any time if permitted in the Product List. While Enrolled Affiliate may Transition any time, it will not be able to reduce Licenses or associated Software Assurance prior to the end of the Transition Period.
  - (ii)** Enrolled Affiliate must order the Licenses to which it is transitioning for the year(s) following the Transition Period
  - (iii)** If a Transition is made back to a License that had active Software Assurance as of the date of Transition, then Software Assurance will need to be re-ordered for all such Licenses on a prospective basis following the Transition Period. Software Assurance coverage may not exceed the quantity of perpetual Licenses for which Software Assurance was current at the time of any prior Transition. Software Assurance may not be applied to Licenses transferred by Enrolled Affiliate.
  - (iv)** If a device-based License is Transitioned to a user-based License, all users of the device must be licensed as part of the Transition.
  - (v)** If a user-based License is Transitioned to a device-based License, all devices accessed by the user must be licensed as part of the Transition.
- d. Effect of Transition on Licenses.** Transition will not affect Enrolled Affiliate's rights in perpetual Licenses paid in full.
  - (i)** New version rights will be granted for perpetual Licenses covered by Software Assurance up to the end of the Transition Period.
  - (ii)** For L&SA not paid in full at the end of the Transition Period, Enrolled Affiliate will have perpetual Licenses for a proportional amount equal to the total of installments paid versus total amounts due (paid and payable) for the Transitioned Product.

- (iii) For L&SA not paid in full or granted a perpetual License in accordance with the above or Subscription Licenses, all rights to Transitioned Licenses cease at the end of the Transition Period.

#### **4. Pricing.**

- a. **Price Levels.** For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be set at the Agreement Program Level.
- b. **Setting Prices.** Enrolled Affiliate's prices for each Product will be established by its Reseller. Microsoft's prices for Resellers are fixed throughout the Enrollment term based upon current prices at the time of the initial order for the Product. This includes the following:
  - (i) Any future pricing (if applicable); and
  - (ii) Prices for Transitions, including any prices related to the use of a Product during the Transition Period (if applicable).

#### **5. Order requirements.**

- a. **Minimum Order Requirements.** Enrolled Affiliate's Enterprise must have a minimum of 250 Qualified Users or Qualified Devices.
  - (i) **Initial Order.** Initial order must include at least 250 Licenses from one of the four groups outlined in the Product Selection Form.
  - (ii) **If choosing Enterprise Products.** If choosing Enterprise Products in a specific group outlined in the Product Selection Form, Enrolled Affiliate's initial order must include an Enterprise-wide selection of one or more Enterprise Products or a mix of Enterprise Products and corresponding Enterprise Online Services for that group.
  - (iii) **Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products.
  - (iv) **Country of Usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.
- b. **Adding Products.**
  - (i) **Adding new Products not previously ordered.** Enrolled Affiliate may add new Enterprise Products by entering into a new Enrollment or as part of a renewal. New Enterprise Online Services may be added by contacting a Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.
  - (ii) **Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products must be included in the next true-up order. Enrolled Affiliate must order Licenses for Online Services prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product List or (2) included as part of other Licenses (e.g., Enterprise CAL).
- c. **True-up orders.** Enrolled Affiliate must submit an annual true-up order that accounts for changes since the initial order or last true-up order, including: (1) any increase in Licenses, including any increase in Qualified Devices or Qualified Users and Reserved Licenses; (2) Transitions (if permitted); or (3) Subscription License quantity reductions (if permitted). Microsoft, at its discretion and as permitted by applicable law, may validate the customer true-up data submitted through a formal product deployment assessment, using an approved Microsoft partner, as set forth in Appendix B, §80.

The true-up order must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The third-year anniversary true-up order is due within 30 days prior to the Expiration Date. Enrolled Affiliate may true-up more often than at each Enrollment anniversary date except for Subscription License reductions.

- (i) **Enterprise Products.** Enrolled Affiliate must determine the current number of Qualified Devices and Qualified Users (if ordering user-based Licenses) and order the License difference (if any), including any Enterprise Online Services.
- (ii) **Additional Products.** For Products which have been previously ordered, Enrolled Affiliate must determine the Additional Products used and order the License difference (if any).
- (iii) **Online Services.** For Online Services identified as eligible for true-up orders in the Product List, Enrolled Affiliate must first reserve the additional Licenses prior to use. Microsoft will provide a report of Reserved Licenses in excess of existing orders to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retroactively for the prior year based upon the month in which they were reserved.
- (iv) **Late true-up order.** If the true-up order is not received when due:
  - 1) Microsoft will invoice Reseller for all Reserved Licenses not previously ordered.
  - 2) Transitions and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).
- (v) **Transitions.** Enrolled Affiliate must report all Transitions. Transitions may result in an increase in Licenses to be included on the true-up order and a reduction of Licenses for prior orders. Reductions in Licenses will be effective at end of the Transition Period. Associated invoices will also reflect this change. For Licenses paid upfront, Microsoft will issue a credit for the remaining months of Software Assurance or Subscription Licenses that were reduced as part of the Transition.
- (vi) **Subscription License Reductions.** Enrolled Affiliate may reduce the quantity of Subscription Licenses on a prospective basis if permitted in the Product List as follows:
  - 1) For Subscription Licenses part of an Enterprise-wide commitment, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices identified on the Product Selection Form. Step-up Licenses do not count towards this total count.
  - 2) For Enterprise Online Services not a part of an Enterprise-wide commitment, Licenses can be reduced as long as the initial order minimum requirements are maintained.
  - 3) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.

Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

- (vii) **Update statement.** An update statement must be submitted instead of a true-up order if, as of the initial order or last true-up order, Enrolled Affiliate's Enterprise has not: (1) changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative. The update statement must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The last update statement is due at least 30 days prior to the Expiration Date.

- d. **Step-up Licenses.** For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

- (i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.
- (ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.
- (iii) If Enrolled Affiliate has previously ordered an Online Service as an Additional Product and wants to step-up to an Enterprise Online Service eligible for a Transition, the step-up may be reported as a Transition.
- (iv) If Enrolled Affiliate Transitions a License, it may be able to further step-up the Transitioned License. If Enrolled Affiliate chooses to step-up and the step-up License is separately eligible to be Transitioned, such step-up Licenses may result in a License reduction at the Enrollment anniversary date following the step-up.

## **6. Payment terms.**

For the initial or renewal order, Enrolled Affiliate may pay upfront or elect to spread its payments over the applicable Enrollment term. If spread payments are elected, unless indicated otherwise, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and on each Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

## **7. End of Enrollment term and termination.**

- a. **General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.
- b. **Renewal Option.** At the Expiration Date, Enrolled Affiliate can renew Products by renewing the Enrollment for one additional 36 full calendar month term or signing a new Enrollment. Microsoft must receive a Product Selection Form and renewal order prior to or at the Expiration Date. The renewal term will start on the day following the Expiration Date. Microsoft will not unreasonably reject any renewal.
- c. **If Enrolled Affiliate elects not to renew.**
  - (i) **Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring L&SA.
  - (ii) **Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product List, the following options are available at the end of the Enrollment initial or renewal term.
    - 1) **Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month ("Extended Term") is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price for Enrolled Affiliate's price level as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate does want an Extended Term, Reseller must submit a request to Microsoft. Microsoft must receive the request not less than 30 days prior to the Expiration Date.
    - 2) **Cancellation during Extended Term.** If Enrolled Affiliate has opted for the Extended Term and later determines not to continue with the Extended Term, Reseller must

submit a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received the notice.

**(iii) Online Services not eligible for an Extended Term.** If Online Services are not identified as eligible for an Extended Term in the Product List, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate's Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

**(iv) Customer Data.** Upon expiration or termination of a License for Online Services, Enrolled Affiliate must tell Microsoft whether to:

- 1) disable its account and then delete its Customer Data ("Data Deletion"); or
- 2) retain its Customer Data in a limited function account for at least 90 days after expiration or termination of the License for such Online Service (the "Retention Period") so that Enrolled Affiliate may extract its Customer Data.
- 3) *If Enrolled Affiliate indicates Data Deletion, Enrolled Affiliate will not be able to extract its Customer Data. If Enrolled Affiliate indicates it wants a Retention Period, Microsoft will initiate a Retention Period and Enrolled Affiliate will be able to perform its extraction of its Customer Data at any time during the Retention Period using Microsoft's provided self-serve Online Service features for Customer Data download. Customer acknowledges that it is advised that data download time is dependent on Internet speeds, quantity of data and other technical factors and that End Users will not have access to Online Service features during the Retention Period and that it should plan accordingly. The duration of the Retention Period is a technical Online Service feature and cannot be adjusted by Microsoft. If Enrolled Affiliate does not indicate either Data Deletion or a Retention Period, Microsoft will retain Enrolled Affiliate's Customer Data in accordance with the Retention Period.*
- 4) Following the expiration of the Retention Period, Microsoft will disable Enrolled Affiliate's account and then delete its Customer Data.
- 5) Enrolled Affiliate agrees that, other than as described above, Microsoft has no obligation to continue to hold, export or return Enrolled Affiliate's Customer Data. Enrolled Affiliate agrees Microsoft has no liability whatsoever for deletion of Enrolled Affiliate's Customer Data pursuant to these terms.

**d. Termination for cause.** Any termination for cause of this Enrollment will be subject to the "Termination for cause" Section of the Agreement.

**e. Early termination.** Any Early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.

## **Enrollment Details**

### **1. Enrolled Affiliate's Enterprise.**

Use this section to identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate's Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Enrolled Affiliate's organization includes . Check only one box in this section:

Enrolled Affiliate

Enrolled Affiliate and the following Affiliate(s):

Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:

Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: <Choose One>

### **2. Contact information.**

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

- a. Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others.

**Name of entity (must be legal entity name)\***

**Contact name\* First                      Last**

**Contact email address\***

**Street address\***

**City\***

**State/Province\***

**Postal code\*                      -**

(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)

**Country\***

**Phone\***

**Tax ID**

*\* indicates required fields*

- b. Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized for applicable Online Services to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as primary contact

**Name of entity\***

**Contact name\* First Last**

**Contact email address\***

**Street address\***

**City\***

**State/Province\***

**Postal code\***

(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)

**Country\***

**Phone\***

**Language preference.** Choose the language for notices. English

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

*\* indicates required fields*

- c. Microsoft Account Manager.** Microsoft Account Manager for this Enrolled Affiliate is:

**Microsoft account manager name:**

**Microsoft account manager email address:**

- d. Online Services Manager.** This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as notices contact and Online Administrator

**Name of entity\***

**Contact name\*: First Last**

**Contact email address\***

**Street address\***

**City\***

**State/Province\***

**Postal code\***

**Country\***

**Phone\***

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

*\* indicates required fields*

e. **Reseller information.** Reseller contact for this Enrollment is:

**Reseller company name\***

**Street address (PO boxes will not be accepted)\***

**City\***

**State/Province\***

**Postal code\***

**Country\***

**Contact name\***

**Phone\***

**Contact email address\***

*\* indicates required fields*

The undersigned confirms that the information is correct.

<b>Name of Reseller*</b>
<b>Signature*</b> _____
<b>Printed name*</b>
<b>Printed title*</b>
<b>Date*</b>

*\* indicates required fields*

**Changing a Reseller.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*

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

- (i) Additional notices contact
- (ii) Software Assurance manager
- (iii) Subscriptions manager
- (iv) Customer Support Manager (CSM) contact

### **3. Financing elections.**

Is a purchase under this Enrollment being financed through MS Financing? No

# Enterprise and Enterprise Subscription Enrollment Product Selection Form – State and Local

Enrollment Number  
 Microsoft to complete for initial term  
 Reseller to complete for renewal

**Step 1. Please indicate whether Enrolled Affiliate is ordering Enterprise Products or Enterprise Online Services on the initial enrollment order. Choose both if applicable.**

**Enterprise Products.** Choose platform option: <Choose One>

**Qualified Devices:**

**Qualified Users:**

**Enterprise Online Services<sup>1</sup>**

**Step 2. Select the Products and Quantities Enrolled Affiliate is ordering on its initial Enrollment Order.** Quantity may not include any Licenses which Enrolled Affiliate has selected for optional future use, or to which it is transitioning or stepping up within enrollment term. Products for which the Enrolled Affiliate has an option to transition or step-up should be listed in Step 3.

Products <sup>2</sup>	Quantity
<b>Office Professional Plus</b>	
Office Pro Plus	
Office Pro Plus for Office 365	
Office Standard	
<b>Office 365 Plans<sup>1</sup></b>	
Office 365 (Plan E1)	
Office 365 (Plan E2)	
Office 365 (Plan E3)	
Office 365 (Plan E4)	

Products <sup>2</sup>	Quantity
<b>Client Access License (CAL). Choose 1 option for either Core CAL or Enterprise CAL</b>	
<input type="checkbox"/> Core CAL, including Bridge CAL's (if applicable)	
Core CAL	
Core CAL Bridge for Office 365	
Core CAL Bridge for Windows Intune	
Core CAL Bridge for Office 365 and Windows Intune	
<input type="checkbox"/> Enterprise CAL (ECAL)	
ECAL	
ECAL Bridge for Office 365	
ECAL Bridge for Windows Intune	
ECAL Bridge for Office 365 and Windows Intune	
The Client Access License selection must be the same across the Enterprise. Specify whether licensing CAL per Device or User: User	
<b>Enterprise Product Components. Choose 1 or multiple Components</b>	
<input type="checkbox"/> Windows CAL	
<input type="checkbox"/> Exchange Standard CAL	
<input type="checkbox"/> SharePoint Standard CAL	
<input type="checkbox"/> Lync Server Standard CAL	
<input type="checkbox"/> System Center Configuration Manager Client ML	
<input type="checkbox"/> Forefront End Point Protection	
<input checked="" type="checkbox"/> Windows Remote Desktop Services CAL	
<input type="checkbox"/> Exchange Enterprise CAL	
<input type="checkbox"/> SharePoint Enterprise CAL	
<input type="checkbox"/> Lync Server Enterprise CAL	
<input type="checkbox"/> System Center Client Management Suite ML	
<input type="checkbox"/> Forefront Protection Suite	
<input type="checkbox"/> Forefront Unified Access Gateway CAL	
The Client Access License selection must be the same across the Enterprise. Specify whether licensing CAL per Device or User: User	
<b>Windows Desktop</b>	
Windows OS Upgrade	
Windows VDA	
<b>Windows Intune</b>	
Windows Intune	
Windows Intune Add-on <sup>3</sup>	

Products <sup>2</sup>	Quantity
<b>Other Enterprise Products</b>	
Microsoft Desktop Optimization Pack (MDOP) <sup>4</sup>	

**If selecting Windows Desktop or Windows Intune option, Enrolled Affiliate acknowledges the following:**

- a. The Windows Desktop Operating System Upgrade licenses offered through this Enrollment are not full licenses. The Enrolled Affiliate and any included Affiliates have qualifying operating system licenses for all devices on which the Windows Desktop Operating System Upgrade or Windows Intune licenses are run.
- b. In order to use a third party to reimagine the Windows Operating System Upgrade, Enrolled Affiliate must certify that Enrolled Affiliate has acquired qualifying operating system licenses. See the Product List for details.

**Step 3. Indicate new Enterprise Products and Online Services Enrolled Affiliate has selected for optional future use where not selected on the initial enrollment order (above):**

Products <sup>2</sup>
<input type="checkbox"/> Office Pro Plus for Office 365
<input type="checkbox"/> Office 365 (Plan E1)
<input type="checkbox"/> Office 365 (Plan E2)
<input type="checkbox"/> Office 365 (Plan E3)
<input type="checkbox"/> Office 365 (Plan E4)
<input type="checkbox"/> Enterprise CAL (ECAL) Step-up, including Bridge CALs
<input type="checkbox"/> Windows Intune
<input type="checkbox"/> Windows Intune Add-on <sup>3</sup>

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



Proposal ID	001-jendunn-S-901 C
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# Select Plus License Program Agreement State and Local Custom Program Agreement Terms and Conditions

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This Microsoft Select Plus Program Agreement (Program Agreement) is entered into between the entities identified on the signature form.

**Effective date.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*

This Program Agreement consists of (1) the associated Microsoft Business Agreement and these Program Agreement terms and conditions and the signature form and all attachments identified therein, (2) the Product List, (3) the Product Use Rights applicable to Products licensed under this Agreement, (4) any Affiliate registration entered into under this Program Agreement, and (5) any Order submitted under this Program Agreement.

The Parties agree to be bound by the terms of this Program Agreement.

## Terms and Conditions

### 1. Definitions.

In this Program Agreement, the following definitions apply:

“Affiliate” means

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

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

(iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates (for clarity details on other entities can located here, or a successor site: <http://www.ogs.ny.gov/purchase/snt/othersuse.asp>); and

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

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

"Commercial Product" means any Product Microsoft makes available for license for a fee;

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

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

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

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

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

"Microsoft" means the Microsoft entity that has entered into this agreement by accepting Customer's registration;

"Order" means the document Customer or Customer's Affiliate submits under this Program Agreement to acquire Licenses or Online Services;

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

"Product" means all software, Online Services and other web-based services, identified on the Product List.

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

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

"Qualifying Contract," means (1) an Enterprise Enrollment under a Microsoft Enterprise Agreement; (2) any Enterprise Subscription Enrollment entered into under a Microsoft Enterprise Subscription Agreement, or a Select Agreement.

"Registered Affiliate" means an entity, either Customer or any one of Customer's Affiliates, identified on an affiliate registration form that has been accepted by Microsoft and has submitted an Order under this Program agreement;

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

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

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

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

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

“Vendor” means any third party supplier or other provider of computer technology or related services.

## 2. **How the Select Plus License program works.**

The Select Plus License Program Agreement allows Registered Affiliates to acquire Licenses at discount pricing. Customer and Customer’s Affiliates can participate in this program if Customer or Customer’s Affiliate (1) submits an Order meeting the initial minimum order quantity, (2) maintains at least one active Qualifying Contract, or (3) has purchased the minimum order quantity during the 12 months preceding the effective date of this Program Agreement. Notwithstanding any other provision of this Program Agreement, only Registered Affiliates identified in a Registration Form will be responsible for complying with the terms of that registration, including the terms of this Program Agreement incorporated by reference in that registration.

- a. **How Registered Affiliates acquire Licenses.** A Registered Affiliate will acquire its Licenses through its chosen Reseller. Orders will be made out to and submitted to the Registered Affiliate’s Reseller. Microsoft will invoice that Reseller according to the terms in the applicable registration. *The Reseller and the Registered Affiliate will determine the Registered Affiliate’s actual price and payment terms.*
- b. **Choosing and maintaining a Reseller.** Each Registered Affiliate must choose and maintain a Reseller authorized in the Registered Affiliate’s region.
- c. **Online Services.** Online Services are provided as subscription services and are subject to the unique terms set forth in the Product Use Rights and the Product List.

## 3. **How to establish price level.**

**Establishing price levels.** Each Product offering is assigned a point value on the Product List and is assigned to a Product pool. The Customer’s price level for a pool applies to purchases made by all Registered Affiliates under this Program Agreement. Throughout the term of this program Agreement, the Customer’s price level for each Product and its associated Pool (Applications, Systems and Servers) will be level “D.” Customer does not need to acquire Products in all pools. The price Microsoft will invoice Reseller will be based on Customer’s price level for the pool of the Product ordered. *Throughout this Program Agreement the term “price” refers to reference price.*

## 4. **License grant — what Registered Affiliates are licensed to run.**

Registered Affiliates have the rights below once their registration is accepted by Microsoft. These rights apply to the Licenses obtained under this Program Agreement and are not related to any order of, or fulfillment of, software media.

The ability to run current or later versions of a Product licensed under this Program Agreement could be affected by minimum system requirements or other factors (e.g., hardware or other software).

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- a. **General.** At any time after their registration has been accepted by Microsoft, a Registered Affiliate may run for its own benefit as many copies as it chooses, of any available Products it chooses, provided that it submits Orders for all copies in the month in which those copies are first run.
- b. **Use by Affiliates.** A Registered Affiliate may sublicense the right to use the Products ordered under this Program Agreement to any of its Affiliates, but Affiliates may not sublicense these rights and their use must be consistent with the License terms contained in this Program Agreement.
- c. **When Licenses become perpetual.**
- (i) **License only.** Registered Affiliate's right to run copies of any Product for which it orders only a License is temporary until the Registered Affiliate has paid for that License in full and Microsoft has collected such payment. Thereafter, Registered Affiliate will have a perpetual License to run the number of copies ordered in the version ordered.
- (ii) **L&SA or Software Assurance.** Registered Affiliate's right to run copies of any Product for which it orders L&SA or Software Assurance is temporary until:
- 1) the Registered Affiliate has paid all installments of the price for such coverage and the Order or renewal term during which such Product Licenses were ordered has expired or been renewed or
  - 2) the Registered Affiliate is otherwise eligible for perpetual Licenses as provided in this agreement.
- Thereafter, the Registered Affiliate will have perpetual Licenses to run the Products ordered in the latest versions available as of the date of expiration, renewal, or termination (or any prior version) for the number of copies ordered or renewed.
- (iii) **Subscription Licenses.** Subscription Licenses are not perpetual under any circumstances.
- d. **Perpetual Licenses through Software Assurance.** Any perpetual Licenses received through Software Assurance supersede and replace the underlying perpetual Licenses for which that Software Assurance coverage was ordered. All perpetual Licenses acquired under this Program Agreement remain subject to the terms of this Program Agreement and the applicable Product Use Rights.
- e. **Non-Perpetual Licenses.** Some Products may be licensed on a fixed term or subscription basis. The right to Use Products licensed on a subscription basis terminates upon expiration of the subscription agreement if it is not renewed.
- f. **License confirmation.** This Program Agreement (*soft copy or web link to location is acceptable*), the applicable Order, the Registered Affiliate's Order confirmation, and any documentation evidencing transfers of Licenses, together with proof of payment, will be the Registered Affiliate's evidence of all Licenses obtained under its Order as described in this Program Agreement.
- g. **Prior version rights.** A Registered Affiliate may run prior versions of any Product it Licenses under this Program Agreement. A Registered Affiliate may run different language versions of any Product it Licenses under this Program Agreement, provided that the License, L&SA, or Software Assurance for that different language version is available at the same, or lower price, than the price paid for the language version ordered of the same Product and License type.

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

*Intentionally omitted, this section is included in the associated Microsoft Business Agreement*

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

- a. **Placing Orders.** Registered Affiliate may purchase Licenses and Online Services Microsoft makes available under this program by placing Orders with Registered Affiliate's authorized Reseller. The price and payment terms for all Orders will be determined by agreement between Registered Affiliate and its Reseller. When placing orders, a Registered Affiliate must specify the country or countries where the Registered Affiliate will use the Licenses.
- b. **When is the Registered Affiliate eligible to order just Software Assurance?** A Registered Affiliate may order Software Assurance for copies of a Product, without the need to simultaneously order a new License for those copies, in each of the following circumstances:
  - (i) Registered Affiliate may order Software Assurance for copies of Products for which the Registered Affiliate has previously obtained perpetual Licenses through Upgrade Advantage, Software Assurance, or any similar upgrade protection, so long as the Order for Software Assurance under this Program Agreement becomes effective no later than one day following the expiration of that upgrade protection, and (2) Registered Affiliate submits an order for another term of Software Assurance for those Licenses prior to or at the expiration of the previous term.
  - (ii) During the term of the Program Agreement (including any renewal term), a Registered Affiliate may be eligible to order Software Assurance for copies of certain Products licensed through retail sources or from an original equipment manufacturer ("OEM"), provided that the Registered Affiliate places its Order within the required time frame. The Product List at <http://www.microsoft.com/licensing/contracts> identifies those Products that may be enrolled in Software Assurance and the applicable time frame for placing an Order.
  - (iii) A Registered Affiliate may also order Software Assurance in any other circumstances expressly permitted in the Product List.
  - (iv) A Registered Affiliate may renew Software Assurance ordered under this Program Agreement at the time it renews its Order as described in the section titled "How to renew an Order."
- c. **How to confirm Orders.** Information about Orders, including an electronic confirmation of each Order, will be provided in a password-protected site on the World Wide Web at <https://www.microsoft.com/licensing/servicecenter/> or a successor site that will be identified. Upon Microsoft's acceptance of this agreement, Registered Affiliate's contact identified for this purpose will be provided access to this site.
- d. **Invoices and payments.** For any Orders for Software Assurance or L&SA, if the Registered Affiliate elects to spread its payments over three years rather than payment in a lump sum, it may make this election with its Reseller. In such cases, Microsoft will invoice the Registered Affiliate's Reseller in installments, the first installment upon receipt of the Order and subsequent installments on each anniversary of the Order or the Affiliate anniversary month. Any amounts for Licenses only (i.e. without accompanying Software Assurance) will be invoiced to the Registered Affiliate's Reseller in full upon receipt of the Order.
- e. **Changing a Reseller.** If Microsoft or the Reseller chooses to discontinue doing business with one another, Customer must choose a replacement Reseller. If Registered Affiliate or Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

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

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

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## 8. **Transferring and reassigning Licenses.**

- a. **License transfers.** License transfers are not permitted, except that Customer may transfer fully-paid perpetual licenses to:

**Transferring Licenses to third parties.** You may transfer fully-paid perpetual Licenses:

- (i) if you are an agency of a state or local government to: (a) any other government agency, department, instrumentality, division, unit or other office of your state or local government that is supervised by or is part of you, or which supervises you or of which you are a part, or which is under common supervision with you; (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of your state and located within your state's jurisdiction and geographic boundaries; and (iii) any other entity expressly authorized by the laws of your state to purchase under state contracts, or (b) an unaffiliated third party in connection with a privatization of an affiliate of agency as set forth in (a) above or of an operating division of the Enrolled Affiliate or one of its affiliates as set forth in (a) above, a reorganization, or a consolidation.

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Customer must notify Microsoft of a transfer of license by completing a transfer notice form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and send the completed form to Microsoft before the license transfer. No License transfer will be valid unless Customer provides to the transferee, and the transferee accepts in writing, the applicable Product Use Rights, use restrictions, limitations of liability (including exclusions and warranty provisions), and the transfer restrictions described in this section. Any license transfer not made in compliance with this section will be void.

**b. Internal Reassignment of Licenses and Software Assurance.**

- (i) **For Products other than the desktop operating system upgrade.** For Products other than the desktop operating system upgrade, Registered Affiliate may internally reassign Licenses to an Affiliate. However, Registered Affiliate may not reassign Licenses on a short-term basis (90 days or less), or reassign Software Assurance or other upgrade coverage separately from the underlying License, except as provided otherwise in this agreement.
- (ii) **For desktop operating systems.** The Registered Affiliate may not reassign desktop operating system upgrade Licenses from one computer to another. The Registered Affiliate may internally reassign Software Assurance coverage on desktop operating systems upgrades from the original computer to a replacement computer internally, as long as (1) the replacement computer is licensed to run the latest version of that operating system, and (2) the Registered Affiliate removes any desktop operating system upgrades from the original computer.

**9. Term and termination.**

- a. **Term.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
- b. **Termination without cause.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
- c. **Mid-term termination for non-appropriation of Funds.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
- d. **Termination for cause.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
- e. **Affiliate termination.** If (1) a Registered Affiliate terminates its registration as a result of a breach by Microsoft, or (2) if Microsoft terminates Registered Affiliate's registration because it has ceased to be an Affiliate of Customer, or (3) Registered Affiliate terminates a registration for non-appropriation of funds, or (4) Microsoft terminates a registration for non-payment due to non-appropriation of funds, then the Registered Affiliate will have the following options with regard to any Orders it has under the Program Agreement:
  - (i) For Licenses available on a perpetual basis, it may immediately pay the total remaining amount due, including all installments, in which case the Registered Affiliate will have perpetual Licenses for all copies of the Products it has ordered, or
  - (ii) It may pay only amounts due as of the termination date, in which case the Registered Affiliate will have perpetual Licenses for:"
    - 1) all copies of all Products for which payment has been made in full (including the latest version of Products under Software Assurance coverage), and
    - 2) the number of copies of Products it has ordered (including the latest version of Products under Software Assurance) for which payment has been made in installments that is proportional to the total of payments made versus total amounts due if the early termination had not occurred.

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

- f. **Effect of termination.** When this agreement, a registration or an Order is terminated,
- (i) Each affected Registered Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an Order. Except for the options provided above in the event of termination of a Registered Affiliate's registration, any and all unpaid payments or any order of any kind, including subscription services, immediately become due and payable.
  - (ii) Registered Affiliate's right to Software Assurance benefits under this agreement ends for all Software Assurance for which payment has not been made in full.

## 10. **How to renew an Order.**

Microsoft will provide prior notice of expiration of any Software Assurance ordered under the Program Agreement advising Customer of its Software Assurance renewal options. Microsoft may make a change to this program that will make it necessary for Customer to enter into a new agreement to renew Software Assurance.

To maintain Software Assurance coverage for any copies previously ordered under this Program Agreement, Registered Affiliate must submit an Order for another term of Software Assurance for those Licenses prior to or on the expiration of the previous term.

**Consequences of non-renewal.** If Registered Affiliate elects not to place another Order for Software Assurance and it otherwise allows Software Assurance for any copies of any Products licensed to lapse, then the Registered Affiliate will not be permitted to order Software Assurance for those copies later without first acquiring L&SA.

**Renewing Software Assurance.** If Registered Affiliate is placing an Order for Software Assurance from multiple Select programs or is consolidating multiple previous Enrollments or agreements into this agreement, please complete the multiple previous Enrollment form.

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11. **Restrictions on use.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
12. **Confidentiality.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
13. **Warranties.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
14. **Defense of infringement, misappropriation, and third party claims.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
15. **Limitation of liability.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
16. **Verifying compliance.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
17. **Non-Microsoft Software or Technology.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
18. **Miscellaneous.** *All of the following sections are intentionally omitted, and are included in the associated Microsoft Business Agreement*
  - a. **Notices to Microsoft.**
  - b. **Assignment.**
  - c. **Severability.**
  - d. **Waiver.**
  - e. **Applicable law; Dispute resolution.**
  - f. **This Agreement is not exclusive.**
  - g. **Survival.**
  - h. **No transfer of ownership.**
  - i. **Free Products.**
  - j. **Amending the Agreement.**
  - k. **Resellers and other third parties cannot bind Microsoft.**
  - l. **Privacy and security.**
  - m. **Voluntary Product Accessibility Templates.**
  - n. **Natural disaster.**
  - o. **Copyright violation.**
  - p. **U.S. export jurisdiction.**

## Appendix F- Sample Custom Affiliate Registration Form

Proposal ID	NY002
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Select Plus Affiliate Registration Form

State and Local

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

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

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

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

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

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

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

### 19. Primary Contact Information.

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

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Name of entity\*  
Contact name\*: First Last  
Contact email address\*  
Street address\*  
City\*  
State\*  
Postal code\*  
Country\*  
Phone\*  
Tax ID

\* indicates required fields

## 20. Notices and online administrator.

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

Same as primary contact

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

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

\* indicates required fields

## 21. Language preference.

Select the language for notices. English

## 4. Reseller information.

Reseller company name\*  
Street address (PO boxes will not be accepted)\*  
City\*  
State\*  
Postal code\*  
Country\*  
Contact name\*  
Phone\*  
Contact email address\*

\* indicates required fields

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The undersigned confirms that the information is correct.

<b>Name of Reseller*</b>
<b>Signature*</b> _____
<b>Printed name*</b>
<b>Printed title*</b>
<b>Date*</b>

\* indicates required fields

- a. **Changing a Reseller.** *Intentionally omitted, this section is included in the associated Program Agreement and Microsoft Business Agreement*

### 5. **Supplemental Contacts.**

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

### 6. **Software Assurance Membership Election.**

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

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

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

**Only valid if attached to a signature form.**

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# Academic Select Plus Agreement

## Program Agreement Terms and Conditions

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

**Effective date.** The effective date of this agreement is July 1, 2013.

This Program Agreement consists of (1) *the associated Microsoft Business Agreement and these Program Agreement terms and conditions and the signature form and all attachments identified therein*, (2) the Product List, (3) the Product Use Rights applicable to Products licensed under this Program Agreement, (4) any Affiliate registration entered into under this Program Agreement, and (5) any Order submitted under this Program Agreement.

The Parties agree to be bound by the terms of this Program Agreement.

## **Terms and Conditions**

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

### **1. Definitions.**

In this Program Agreement, “Institution or Institution’s Affiliate” means the entity that is a qualified educational user identified at <http://www.microsoft.com/licensing/contracts> as of the effective date of this

Program Agreement and that has entered into this Program Agreement with Microsoft by submitting an Affiliate registration form, and “Microsoft” means the Microsoft entity that has entered into this Program Agreement by accepting Institution’s registration and its Affiliates, as appropriate. In addition, the following definitions apply:

Affiliate” means

a. with regard to Institution,

(i) if Institution is a non-public entity, any qualified educational user identified at Appendix J that Institution owns and/or controls, that owns Institution and/or controls Institution, or that is under common ownership and/or control with Institution; “ownership” means, for purposes of this definition, more than 50% ownership, and

(ii) if Institution is a state or local government entity,

- any other qualified educational user identified at Appendix J as of the effective date of this Program Agreement that is an agency, department, office, bureau, division, or other entity of Institution’s state or local government, and
- any other qualified educational user expressly authorized by the laws of Institution’s state to purchase under state education contracts;

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

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

“available” means Microsoft has made Licenses for that Product available on the Product List for ordering under a particular licensing program.

“Fix(es)” means Product fixes, modifications or enhancements, or their derivatives, that Microsoft releases generally (such as Commercial Product service packs).

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

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

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

“Order” means the document Institution or Institution’s Affiliate submits under this Program Agreement to acquire Licenses or Online Services;

“Product” means all software, Online Services and other web-based services identified on the Product List.

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

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

“Qualifying Contract,” means a Campus or School Enrollment under a Microsoft Campus and School Program Agreement or an Academic Select Agreement.

“Qualified Desktop” means any personal desktop computer, portable computer, workstation, or similar device that is used by or for the benefit of Institution’s organization (or by or for the benefit of Students

enrolled in Institution's organization, if applicable) and that meets the minimum requirements for running any of the Desktop Platform Products. Qualified Desktops do not include: (1) any computers that are designated as servers and not used as a personal computer, (2) Industry Devices, or (3) any devices running an embedded operating system (e.g. Windows Vista for embedded, Windows XP embedded) that do not access a virtual desktop infrastructure;

"Registered Affiliate" means an entity, either Institution or any one of Institution's Affiliates, identified on an Affiliate registration form that has been accepted by Microsoft and has submitted an Order under this Program Agreement;

"Reseller" means a large account reseller authorized by Microsoft to resell Product and Software Assurance in an Enrolled Customer's region under this Agreement;

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

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

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

## **2. *How the Academic Select Plus License program works.***

**Summary:** Under the Academic Select Plus License Program Agreement, Institution and its Affiliates can license Products at discount pricing based on the volume of Licenses they purchase.

The Academic Select Plus License Program Agreement allows Registered Affiliates to acquire Licenses and services at discount pricing. Institution and Institution's Affiliate can participate in this program if Institution or Institution's Affiliate (1) submits an Order meeting the initial minimum order quantity, (2) maintains at least one active Qualifying Contract, or (3) purchased the minimum order quantity during the 12 months preceding the effective date of this Program Agreement. Regarding public qualified educational users, only Registered Affiliates identified in a registration will be responsible for complying with the terms of that registration, including the terms of this Program Agreement incorporated by reference in that registration. Online services are provided as subscription services and are subject to unique terms set forth in the Product Use Rights and the Product List.

## **3. *How to establish price level.***

**Summary:** Institution's price level for each Product category is based on their purchase volume for that category. Price levels will be reviewed each year on the anniversary of this Program Agreement.

- a. Price level.** Each Product offering is assigned a point value on the Product List and is assigned to one of the following pools: applications, systems, and servers. In order for Registered Affiliates to qualify for academic level pricing and be eligible to acquire Licenses from any particular pool under this Program Agreement, Institution must represent to Microsoft that Institution reasonably expects its Registered Affiliates, in the aggregate, to acquire from that pool, during the initial term of this Program Agreement. Institution's price level will be used to determine the prices Microsoft will invoice each Registered Affiliate's Reseller for Product Licenses that Registered Affiliate orders.
- b. Compliance check.** Each calendar year, on the Program Agreement anniversary date, Microsoft will review Institution's purchases to count the number of points earned by all Registered Affiliates for each pool during the preceding term.

If Institution does not maintain a Qualifying Contract or earn enough points during an annual term to qualify for program participation, Registered Affiliates will not be able to place

additional Orders under this Program Agreement until Institution has placed a minimum qualifying Order.

#### **4. License grant — what Registered Affiliates are licensed to run.**

**Summary:** Registered Affiliate can use the latest version of the Products ordered, or choose to use any earlier version. Except for subscription licenses, use rights become permanent once Registered Affiliate has completed all payments. At that time, Registered Affiliate will have perpetual Licenses for the number of desktops, users, or copies for which Registered Affiliate submitted Orders during the term.

Registered Affiliates have the rights described below once their registration is accepted by Microsoft. These rights apply to the Licenses obtained under this Program Agreement and are not related to any order of fulfillment of media.

The ability to run current or later versions of a Product licensed under this Program Agreement could be affected by minimum system requirements or other factors (e.g., hardware or other software).

- a. General.** At any time after its registration has been accepted by Microsoft, a Registered Affiliate may run copies of available Products, provided that it submits Orders for all Licenses in the month in which those copies are first run.
- b. Use by Affiliates.** A Registered Affiliate may sublicense the right to use the Products ordered under this Program Agreement to any of its Affiliates, but Affiliates may not sublicense these rights and their use must be consistent with the license terms contained in this Program Agreement.
- c. When Licenses become perpetual.** The right to run any Product licensed under an Order is temporary until the applicable License, Software Assurance, or L&SA are paid for in full. Thereafter, a perpetual License is granted to run the number of copies ordered in the version ordered (or the latest version in the case of Software Assurance).
- d. Perpetual Licenses through Software Assurance.** Any perpetual Licenses received through Software Assurance supersede and replace the underlying perpetual Licenses for which that Software Assurance coverage was ordered. All perpetual Licenses acquired under this Program Agreement remain subject to the terms of this Program Agreement and the applicable Product Use Rights.
- e. Non-Perpetual Licenses.** Some Products may be licensed on a fixed term or subscription basis. The right to use Products licensed on a subscription basis terminates upon expiration of the subscription Program Agreement if it is not renewed.
- f. License confirmation.** This Program Agreement (*soft copy or web link to location is acceptable*), the applicable Enrollment (*soft copy is acceptable*), the Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of Licenses, together with proof of payment, will be the Enrolled Affiliate's evidence of all Licenses obtained under its Enrollment.
- g. Benefits limited to qualified educational user.** Products licensed under this Program Agreement may be used only by and for the benefit of a qualified educational user. Client Access Licenses that the Registered Affiliates acquire solely to enable their students to access their servers are, for the purposes of this restriction, deemed to be used by and for the benefit of a qualified educational user. For each such student Client Access License the Registered Affiliate acquires, it does not need to acquire a separate Client Access License for the parent(s) or legal guardian(s) of the licensed student user. Licenses obtained under this Program Agreement may not be transferred, sublicensed, rented, leased, or loaned to any person or entity that is not a qualified educational user.
- h. Prior version rights.** A Registered Affiliate may run prior versions of any Product it licenses under this Program Agreement. A Registered Affiliate may run different language versions of

any Product it Licenses under this Program Agreement, provided that the License, L&SA, or Software Assurance for that different language version is available at the same, or lower price, than the price paid for the language version ordered of the same Product and License type.

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

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

- a. **Product Use Rights** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
  - (i) **Product Use Rights for current and future versions of Products.** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
  - (ii) **Product Use Rights for earlier versions (downgrade).** *Intentionally omitted, this section is included in the associated Microsoft Business Agreement*
- b. **Alternative Product use rights: deploying licenses in academic settings.** For each copy of Microsoft Developer Products a Registered Affiliate licenses for instructional purposes in connection with a class or other educational program, the Registered Affiliate may, as an alternative to deploying the Product pursuant to the licensing model described in the Product Use Rights, either
  - (i) permit an unlimited number of its student users to run the Product on a single computer or similar device, provided that all such users comply with all other terms of this Program Agreement; or
  - (ii) if the Registered Affiliate has licensed multiple copies of the Product, then, at any time, its students or faculty may run as many copies of the Product as it has licensed, provided that those users comply with all other terms of this Program Agreement. If the anticipated number of users of the Product will exceed the number of copies the Registered Affiliate has licensed, it must have a reasonable mechanism or process in place to ensure that the number of persons running the product at any given point in time does not exceed the number of copies licensed.
- c. **Redistribution of Software Updates to students.**
  - (i) **License grant.** From time to time Microsoft may make available to the general public additional or replacement code of any portion of our licensed Products without a fee ("Software Updates"). Microsoft grants Institution a limited, non-exclusive, royalty-free, non-assignable, non-transferable, revocable License to distribute the Software Updates to Institution's students in accordance with the terms of this Section 5(d). Institution's students must use the Software Updates solely for their personal benefit in accordance with the end-user license Program Agreement with Microsoft ("EULA") included with each Software Update.
  - (ii) **Redistribution of Software Updates.** Institution may redistribute Software Updates to Institution's students by electronic means provided that Institution's method of electronic distribution is adequately licensed and incorporates access control and security measures designed to prevent modification of the Software Updates and prevent access by the general public, or, where available, through acquiring authorized copies on fixed media from a fulfillment source approved by Microsoft.
- d. **Limitations.** Institution may not: (1) produce or replicate Software Updates onto CDs or other distributable storage media; (2) combine the Software Updates with other non-Microsoft

software; (3) distribute any Software Updates as a stand-alone component via email attachment; (4) charge for the Software Updates, but Institution may recover any reasonable costs incurred in providing the updates to Institution's students; (5) remove, modify, or interfere with the EULA or the EULA acceptance functionality included by Microsoft with any Software Update; or (6) alter the Software Updates in any way. Microsoft is not responsible for any cost related to the acquisition, distribution, or recall of the Software Updates.

- e. Tracking and recall; replacement Software Updates.** Institution must track the quantity and method of distribution of the Software Updates by means that will allow Institution to provide notice of a recall and offer replacements as provided in this subsection. Institution agrees to stop redistributing Software Updates within 10 days of receipt of a notice of recall from Microsoft, and within 30 days of that notice, Registered Affiliate agrees to (1) return to Microsoft or destroy all copies of Software Updates in Registered Affiliate's possession, and (2) notify Registered Affiliate's students of the recall by same or similar means in which they were notified of the availability of the Software Updates.

If Microsoft makes available to Registered Affiliate a replacement Software Update, Registered Affiliate agrees to make the replacement available to its students within 10 days of receipt and in the same quantity and method of distribution as Registered Affiliate made the original Software Update available. Institution's distribution of replacement Software Updates is subject to the same conditions and restrictions as Software Updates under this section.

- f. No warranties; exclusion of indirect, special, incidental, consequential and certain other damages.** Notwithstanding anything to the contrary in this Program Agreement, and to the extent permitted by law, Software Updates that Registered Affiliate redistributes to Institution's students are provided "as-is" without any warranties. Institution and its Registered Affiliates acknowledge that the provisions of this paragraph with regard to the Software Updates are reasonable based on, among other things, the fact that they are complex computer software and their performance will vary depending upon hardware, platform and software interactions and configurations.

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

- (i) Limitation of liability.** With respect to Registered Affiliate's redistribution of the Software Updates, the Limitation of Liability provisions in Section 17 of this Program Agreement shall apply in those situations in which Institution or a Registered Affiliate have a right to claim damages or payment from Microsoft.

- (ii) No support.** Software Updates that Registered Affiliate redistributes to its students are provided without any support obligation by Microsoft, including any benefits accruing from Software Assurance.

- g. Reservation of rights.** All rights not expressly granted are reserved by Microsoft.

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

**Summary:** Registered Affiliate must place Orders with an authorized Reseller who will determine price and other payment terms. Registered Affiliate Order information can be found at a dedicated

website. For Orders that include Software Assurance, Microsoft may invoice Registered Affiliate's Reseller in three annual payments.

- a. **Placing Orders.** Registered Affiliate may purchase Licenses and services Microsoft makes available under this program by placing Orders with Registered Affiliate's authorized Reseller. The price and payment terms for all Orders will be determined by Program Agreement between Registered Affiliate and Registered Affiliate's Reseller. When placing Orders, a Registered Affiliate must specify the country or countries where the Registered Affiliate will use the Licenses.
- b. **How to confirm Orders.** Information about Orders, including an electronic confirmation of each Order, will be provided in a password-protected site on the World Wide Web at <https://licensing.microsoft.com> or a successor site that will be identified. Upon Microsoft's acceptance of this Program Agreement, Registered Affiliate's contact identified for this purpose will be provided access to this site.
- c. **Invoices and payments.** For any Orders for Software Assurance or L&SA, if the Registered Affiliate elects to spread its payments over three years rather than payment in a lump sum, it may make this election with its Reseller. In such cases, Microsoft will invoice the Registered Affiliate's Reseller in installments, the first installment upon receipt of the Order, and subsequent installments on each anniversary of the Order or on the Affiliate anniversary month, whichever the Registered Affiliate chooses. Any amounts for Licenses only (i.e. without accompanying Software Assurance) will be invoiced to the Registered Affiliate's Reseller in full upon receipt of the Order.
- d. **When is Registered Affiliate eligible to only order Software Assurance?** Registered Affiliate may order Software Assurance for copies of a Product without the need to simultaneously order a new License for those copies in each of the following circumstances:
  - (i) Registered Affiliate may order Software Assurance for copies of Products for which the Registered Affiliate has previously obtained perpetual Licenses through Upgrade Advantage, Software Assurance, or any similar upgrade protection, so long as the Order for Software Assurance under this Program Agreement becomes effective no later than one day following the expiration of that upgrade protection.
  - (ii) During the term of the Program Agreement (including any renewal term), Registered Affiliate may be eligible to order Software Assurance on behalf of Registered Affiliates for copies of certain Products licensed through retail sources or from an original equipment manufacturer ("OEM"), provided that the Registered Affiliate places the Order within the required time frame. The Product List at <http://www.microsoft.com/licensing/contracts> identifies those Products that may be enrolled in Software Assurance and the applicable time frame for placing an Order.
  - (iii) Registered Affiliate may also Order Software Assurance for the benefit of a Registered Affiliate in any other circumstances expressly permitted in the Product List.
  - (iv) Registered Affiliate may renew Software Assurance ordered for the benefit of a Registered Affiliate under this Program Agreement at the time it renews its Order as described in the section titled "How to renew an Order."

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

**Summary:** Registered Affiliate can make as many copies as it needs. The copies must be complete from master copies obtained from an authorized source. If Registered Affiliate uses third parties to make copies, Registered Affiliate is responsible for them. Registered Affiliate can make a specified number of complimentary copies for training, evaluation, and back-up. In certain circumstances, Registered Affiliate can use the media that it obtains under this program to make copies of Products that it is licensing through some other channel. Generally, this is only allowed where the Product,

version, language, type, and components that are being copied are identical to those licensed through that other channel.

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

## **8. *Work at home Product use rights.***

**Summary:** Generally, the Registered Affiliate's faculty and staff users who are licensed to use Microsoft Office have the right, so long as this Program Agreement is active, to run one additional copy of that Product on another computer they own.

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

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

## 9. *Distributing media.*

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

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

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

## 10. *Transferring and reassigning Licenses.*

**Summary:** Registered Affiliate can transfer perpetual Licenses to an Affiliate and to third parties in connection with a divestiture, merger, or consolidation — Registered Affiliate only needs to provide notice to Microsoft. Registered Affiliate cannot transfer Licenses to third parties under other circumstances without Microsoft's prior written consent. Transferees must agree to be bound by the applicable terms. License transfers must be permanent; with certain exceptions, SA cannot be transferred but may be reassigned to another device within the same enterprise under certain conditions; all versions of upgrades must be transferred together, desktop operating system Licenses and upgrades must stay with the computer system on which they were first installed. Generally, Registered Affiliate can reassign Licenses internally, from one user to another, or from one desktop device to another. Resale of Licenses is prohibited.

- a. **Transferring Licenses to third parties.** License transfers are not permitted except as explicitly set forth in this section.
  - (i) **Right to transfer.** Registered Affiliate may transfer fully-paid perpetual Licenses to (1) a Registered Affiliate, or (2) another unaffiliated third party in connection with a divestiture of an Affiliate or of an operating division of the Registered Affiliate or one of its Affiliates, or a merger or consolidation. To do so, the Registered Affiliate must complete and send to Microsoft a transfer notice in a form which can be obtained from <http://www.microsoft.com/licensing/contracts> before the transfer. No License transfer will be valid unless the Registered Affiliate provides to the transferee, and the transferee accepts in writing, the applicable Product Use Rights, use restrictions, limitations of

liability, and the transfer restrictions described in this section. Any transfer not made in compliance with this section will be void and Registered Affiliate must either return or destroy the licensed copies.

**(ii) Limitations.** Even in the event of a merger, consolidation or divestiture, the following types of transfers are not permitted:

- Licenses on a short-term basis (90 days or less);
- temporary rights to use Products;
- Software Assurance coverage;
- perpetual Licenses for any version of any Product acquired through Software Assurance separately from the underlying perpetual Licenses for which that Software Assurance coverage was obtained;
- an upgrade License for a desktop operating system Product separately from the underlying desktop operating system License, or from the computer system on which the Product is first installed;
- full version desktop operating system licenses, unless transferred with the sale of the device for which it operates; or
- any Software Assurance benefits or online services.

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

**b. Internal reassignment of Licenses and Software Assurance.**

**(i) For Products other than the desktop operating system.** For Products other than the desktop operating system and upgrade, Registered Affiliate may reassign Licenses to an Affiliate. However, Registered Affiliate may not reassign Licenses on a short-term basis (90 days or less), or reassign Software Assurance or other upgrade coverage separately from the underlying License, except as provided otherwise in this Program Agreement.

**(ii) For desktop operating systems and upgrade.** Registered Affiliate may not reassign desktop operating system Licenses or upgrades from one computer to another. The Registered Affiliate may internally reassign Software Assurance coverage on desktop operating systems upgrades from the original computer to a replacement computer internally, as long as (1) the replacement computer is licensed to run the latest version of that operating system, and (2) the Registered Affiliate removes any desktop operating system upgrades from the original computer.

## **11. Term and termination.**

- a. **Term.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement*
- b. **Termination without cause.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement*
- c. **Termination for breach.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement*
- d. **Effect of termination.** When this Program Agreement is terminated, Registered Affiliate must order Licenses for all copies of Products it has run for which it has not previously

submitted an Order. Any and all unpaid payments or any order of any kind, including subscription services, remain due and payable.

## **12. How to renew an Order.**

**Summary:** Registered Affiliate can place Orders for Software Assurance for additional terms at its option. Orders for Software Assurance must be received prior to or on the expiration of the previous term.

Microsoft will provide prior notice of expiration of any Software Assurance ordered under the Program Agreement advising Institution of its Software Assurance renewal options.

To maintain Software Assurance coverage for any copies previously ordered under this Program Agreement, Registered Affiliate must submit an Order for another term of Software Assurance for those Licenses prior to or at the expiration of the previous term.

**Consequences of non-renewal.** If Registered Affiliate elects not to place another Order for Software Assurance and it otherwise allows Software Assurance for any copies of any Products licensed to lapse, then the Registered Affiliate will not be permitted to order Software Assurance for those copies later without first acquiring L&SA.

**Renewing Software Assurance.** If Institution is placing an Order for Software Assurance for a Registered Affiliate from multiple Select Plus programs or is consolidating multiple previous registration or Program Agreements into this Program Agreement, please complete the multiple previous registration form and attach it to this Program Agreement. The date of the earliest expiring order/registration/Program Agreement that contains Software Assurance will be the effective date of the new Software Assurance coverage.

## **13. Restrictions on Use.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

## **14. Confidentiality.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

## **15. Warranties.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

## **16. Defense of infringement, misappropriation, and third party claims.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

## **17. Limitation of liability.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

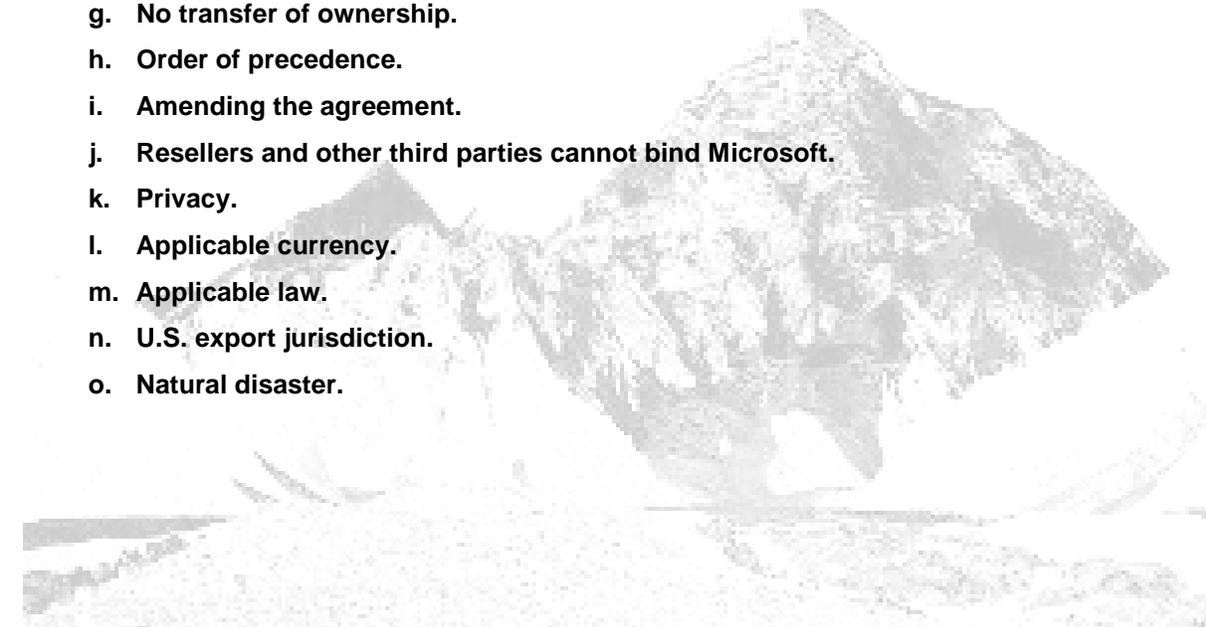
## **18. Verifying compliance.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

## **19. Miscellaneous.**

*All of the following sections are intentionally omitted, and are included in the associated Microsoft Business Agreement.*

- a. Notices to Microsoft.**
- b. Assignment.**
- c. Severability**
- d. Waiver.**
- e. Force Majeure.**
- f. Non-exclusivity.**
- g. No transfer of ownership.**
- h. Order of precedence.**
- i. Amending the agreement.**
- j. Resellers and other third parties cannot bind Microsoft.**
- k. Privacy.**
- l. Applicable currency.**
- m. Applicable law.**
- n. U.S. export jurisdiction.**
- o. Natural disaster.**



# Appendix G - Sample Affiliate Registration Form

## Select Plus Affiliate Registration Form

Registration Type <i>Reseller to complete</i>	Lead Affiliate <input type="checkbox"/> Additional Affiliate <input type="checkbox"/>	Organization Type <i>Reseller to complete</i>	Business <input type="checkbox"/> Government <input type="checkbox"/> Academic <input type="checkbox"/>
Additional Affiliate Public Customer Number (PCN) <i>Reseller to complete</i>		Lead Affiliate Public Customer Number (PCN) <i>Reseller to complete</i>	
Qualifying Contract <i>Reseller to complete</i>		Change Affiliate Anniversary Month <i>Reseller to complete</i>	<Choose Month>
Agreement Number <i>Microsoft or Reseller to complete</i>		Proposal ID/Framework	NY003

By registering, Registered Affiliate accepts and agrees to be bound by the terms of the Agreement and any applicable attachments (the "Agreement"), and will be allowed to acquire Licenses and services in accordance with the Agreement. If Registered Affiliate selects an Organization Type above other than Business, then the Qualifying Government Entity Form or Qualified Educational User Definition, as appropriate, is incorporated by reference. These are located at <http://www.microsoft.com/licensing/contracts>.

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

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

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

### 1. Primary contact information.

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

**Name of entity\***

**Contact name\* First Last**

**Contact email address\***

**Street address\***

**City \* State/Province\* Postal code\***

**Country\***

**Phone\* Fax**

Tax ID

**2. Notices contact and online administrator.**

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

Same as primary contact

**Name of entity\***

**Contact name\* First Last**

**Contact email address\***

**Street address\***

**City\* State/Province\* Postal code\***

**Country\***

**Phone\* Fax**

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

**3. Language preference.**

Select the language for notices. English

**4. Media delivery contact.**

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

Same as notices contact

**Name of entity\***

**Contact name\* First Last**

**Contact email address (required for online access)\***

**Street address (no PO boxes accepted)\***

**City\* State/Province\* Postal code\***

**County Country\***

**Phone\* Fax**

**In City Limits?**

**Estimated Tax Rate**

**5. Reseller information.**

**Reseller company name\***

**Street address (PO boxes will not be accepted)\***

**City\* State/Province\* Postal code\***

**Country\***

**Contact name\***

**Phone\* Fax**

**Contact email address\***

The undersigned confirms that the information is correct.

**Name of Reseller\***

**Signature\*** \_\_\_\_\_

**Printed name\***

**Printed title\***

**Date\***

**Changing a Reseller.** *Intentionally omitted, this section is included in the associated Program Agreement and Microsoft Business Agreement*

**6. Supplemental Contacts.**

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

**7. Software Assurance Membership Election.**

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

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

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

**Only valid if attached to a signature form**

Proposal ID	001-jendunn-S-901 E
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# Campus and School Agreement Program Agreement Terms and Conditions

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This *Campus and School Program Agreement* is entered into between the entities identified on the signature form.

**Effective Date.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

This Program Agreement consists of (1) the associated Microsoft Business Agreement and these Agreement Program terms and conditions and the signature form and all attachments identified therein, (2) the Product List, (3) the Product use rights, (4) any Enrollment entered into under this Program Agreement, (5) any order submitted under this agreement, and (6) the eligibility criteria for Campus and School Agreement at Appendix J as of the effective date of this Program Agreement.

**Please note:** Documents referenced in this Program Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated by reference, including the Product List, Product use rights and the Qualified Educational User definition. These documents may contain additional terms and conditions for Products licensed under this Program Agreement and may be changed from time to time. Institution should review such documents carefully, both at the time of signing and periodically, to ensure a full understanding of all terms and conditions applicable to Products licensed.

## Terms and Conditions

### 1. Definitions.

In this agreement, the following definitions apply:

“Affiliate” means

- a. with regard to Institution,
  - (i) for a non-public entity, any qualified educational user identified at *Appendix J* that Institution owns and/or controls, that owns and/or controls Institution, or that is under common ownership and/or control with Institution; “ownership” means, for purposes of this definition, more than 50% ownership, and
  - (ii) for a state or local government entity,
    - 1) any qualified educational user identified at *Appendix J* as of the effective date of this agreement that is an agency, department, office, bureau, division, or entity of the state or local government, and
    - 2) any qualified educational user expressly authorized by the laws of the state to purchase under state education contracts;

provided that the state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft;

“Customer Data” means all data, including all text, sound, software, or image files that are provided to Microsoft by, or on behalf of, Customer through Customer’s use of the Online Services.

“Enrollment” means the form that Institution submits under this agreement to sign up for this program;

“Fix(es)” means Product fixes, modifications or enhancements, or their derivatives, that Microsoft releases generally (such as Commercial Product service packs).

“Institution” means the entity that is a qualified educational user identified at *Appendix J* as of the effective date of this agreement that has entered into this agreement with Microsoft or the Institution’s Affiliate that has entered into an Enrollment under this agreement. If Institution is a school district, “Institution” includes all participating schools in the same district;

“License” means Institution’s right to run the quantity of a Product ordered. Under this agreement, Licenses are available only on a subscription basis (“Subscription License”). Licenses for Online Services will be considered Subscription Licenses under this Program Agreement;

“Licensed Period” means the period of time beginning on the effective date specified in Institution’s Enrollment and continuing for the period of time specified in Institution’s Enrollment (either 12 or 36 calendar months);

“Microsoft” means the Microsoft Affiliate that has entered into this Agreement or a Program Agreement and its Affiliates, as appropriate;

“Online Services” means the Microsoft-hosted services identified in the Online Services section of the Product List;

“Product” means all software, Online Services and other web-based services identified on the Product List.

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

“Product use rights” means the use rights or terms of service for each Product and version at <http://www.microsoft.com/licensing/contracts> or at a successor site;

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

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

*“Software Assurance” means the document specifying the standards Microsoft agrees to adhere to and by which it measures the level of service for an Online Service.*

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

“Users” means Institution, faculty, staff, and students designated on the Enrollment to run the Products, and members of the public who access devices located in Institution’s open access labs or libraries.

## **2. How the Campus and School program works.**

The Campus and School Agreement allows Institution to license one or more Products on a subscription basis. To license Products on a subscription basis means that the right to run the Product is non-perpetual and continues only during the Licensed Period.

Institution can participate in this program by submitting an Enrollment. This program allows a one-year Licensed Period or a three-year Licensed Period. The choice is indicated in the Enrollment.

**One-year Licensed Period.** An order must be submitted to indicate the Products Institution chooses to run. Thereafter, extension orders are submitted to continue the subscription each year. If an extension order is not received, the Enrollment will expire.

**Three-year Licensed Period.** An order must be submitted to indicate the Products Institution chooses to run. Thereafter, Institution must submit anniversary orders on the first and second anniversaries of the effective date of its Enrollment.

## **3. Subscription price.**

This provision shall not apply to Products licensed to Institution at special promotion prices to distributor or reseller, as applicable.

**One-year Licensed Period.** Microsoft will not increase the License prices charged to the reseller for an annual extension order by more than ten percent (10%) (as determined with reference to U.S. funds, regardless of the currency in which amounts are invoiced or payment is made) over the License prices charged for the immediately preceding 12-month Licensed Period if (1) Institution submits an extension order prior to the expiration of the Enrollment and (2) such order is confirmed for the same Products in the same quantities as ordered in the expiring Licensed Period.

**Three-year Licensed Period.** If Institution chooses this option and complies with the ordering requirements in the agreement, for any Products ordered during the Licensed Period, the price Microsoft charges the Distributor or Reseller on each anniversary order will be the same as the price for the Products when they are first ordered except for step-ups.

#### **4. License grant — what Institution and its Users are licensed to run.**

On the date of Microsoft's letter to Institution confirming Microsoft's acceptance of the Enrollment, Institution is temporarily licensed to have Users run the Products as permitted in the Product use rights located at <http://www.microsoft.com/licensing/contracts>.

The Institution's right to have its Users run the Products, *and* Fixes is expressly limited to the rights described in this agreement, including the following limitations:

- a. Neither Institution nor its Users may separate the components of Products made up of multiple components by running them on different computers by upgrading or downgrading them at different times or by transferring them separately except as otherwise provided in the Product use rights.
- b. Neither Institution nor its Users may rent, lease, commercially host or lend any copy of the Products or Fixes, except where agreed by separate agreement.
- c. Neither Institution nor its Users may reverse engineer, decompile or disassemble the Products, *or* Fixes - except to the extent expressly permitted by applicable law despite this limitation.
- d. Neither Institution nor its Users may make copies of the Products, Fixes or Services Deliverables and distribute them on media to student Users.
- e. The components of the Products may vary by platform. Institution may run only the components of the Products that are included on the platform Institution chooses to deploy.

Neither Institution nor its Users will be entitled to free telephone support for the Products, except as specified in writing in connection with Software Assurance membership or other Software Assurance offerings.

Institution may only sublicense the right to run Products to Affiliates that are included in its defined organization.

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

The right to run any Product under this agreement is temporary unless Institution elects to obtain perpetual Licenses under the buy-out option.

#### **5. Use rights and restrictions.**

- a. **Product use rights.** The Product use rights in effect on the effective date of an Enrollment will apply to use of then-current versions of each Product (excluding Online Services). For future versions, the Product use rights in effect when those future versions are first released will apply. In both cases, subsequent changes made by Microsoft to the Product use rights for a particular version will not apply to use of that version, unless Institution chooses to have such changes apply.

The use rights for Online Services and the process for updating them as the Online Services evolve are detailed in the Product use rights.

- b. **Product use rights for earlier versions (downgrade).** If Institution runs an earlier version of a Product than the version that was current on the Enrollment effective date, the Product use rights for the version licensed, not the version being run, will apply. However, if the earlier version includes components that are not part of the licensed version, any Product use rights specific to those components will apply to Institution's use of those components.
- c. **Use rights for different language version.** Institution may run Products in any available language version. If Institution is using any different language version of any Product

licensed under its agreement, Institution's use of the different language version will be governed by the Product use rights for the version licensed under this agreement.

- d. **Fixes.** Use of any Fixes is defined by the Product use rights for the affected Products or, if the Fix is not provided for specific Products, any other use terms Microsoft provides. All Fixes are licensed, not sold.
- e. **FERPA.** Upon receipt of a judicial order or lawfully issued subpoena requiring the disclosure of personally identifiable information from education records related to Institution in Microsoft's possession, Microsoft or an Affiliate of Microsoft will attempt to redirect the request to Institution. If compelled to disclose personally identifiable information from education records related to Institution to a third party, Microsoft will use commercially reasonable efforts to notify Institution in advance of a disclosure unless legally prohibited. Institution understands that Microsoft may have no or limited contact information for Institution's students and students' parents in its possession. Consequently, Institution will convey notification on behalf of Microsoft to students (or, with respect to a student under 18 years of age and not in attendance at a postsecondary institution, to the student's parent) of such an order or subpoena as may be required under applicable law.
- f. **Non-Microsoft software and technology.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement*

## 6. **Making copies of Products and re-imaging rights.**

- a. **General.** Institution may make as many copies of the Products licensed as necessary to distribute the Products within its organization. All copies of any Product must be true and complete copies (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Institution may also have a third party make or distribute copies but Institution is responsible for such third party's actions. Institution agrees to make reasonable efforts to notify its employees, agents, and other individuals running a Product that the Product is licensed from Microsoft and subject to the terms of this agreement.
- b. **Copies for evaluation.** During the term of its Enrollment, Institution may run up to 10 complimentary copies of any Product for a 60 day evaluation period.
- c. **Re-imaging rights.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product(s) is licensed (1) from an original equipment manufacturer (OEM), or (2) as a full packaged Product through a retail source, then media provided under this agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
  - (i) Separate Licenses must be owned from the separate source for each Product that is re-imaged.
  - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
  - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., upgrade or full License) must be identical to the Product type from the separate source.
  - (iv) Any Product-specific processes or requirements for re-imaging identified in the Product List.
  - (v) Re-images made under this subsection remain subject to the terms and use rights provided with the License from the separate source. This subsection does not create or extend any warranty or support obligation.

## 7. *Distributing media.*

- a. **To Faculty and Staff.** Institution may acquire the quantity of media as necessary to distribute the Products to Faculty and Staff for use in accordance with the agreement. All media for a particular Product must be acquired from a Microsoft-approved fulfillment source for that Product. Institution may also copy volume licensing media acquired from a Microsoft-approved fulfillment source for distribution to Faculty and Staff Users only. All copies must be true and complete copies (including copyright and trademark notices). Institution must maintain the security of any volume licensing keys provided with volume licensing media in accordance with applicable Product use rights and other restrictions and may disclose them only to employees authorized to engage in the installation and support of the Products. Institution may not disclose volume licensing keys to Faculty and Staff work-at-home Users or to Students or to any other unauthorized third party.
- b. **To Faculty and Staff work at home Users and to Student licensing option Users.** If Institution exercises Faculty and Staff work at home rights for selected Products or selects the Student licensing option in an Enrollment, access to media by Faculty and Staff for work at home purposes and by Students must be restricted and regulated by Institution. All media for Products distributed to Faculty and Staff for work at home purposes and to Students must be acquired from a Microsoft-approved fulfillment source, and such Products may be distributed to such Users only in the following ways:
  - (i) if individual student-media CD-ROM or disk sets (collectively, "Student Media") is purchased for a particular Product, Institution may distribute one copy of such Student media directly to each authorized work at home User or Student (Student Media may contain Product activation features that limit the number of installations); the reseller can identify media and Products that contain Product activation features. Details on ordering and distributing Student Media, including a list of the Products for which Student Media is currently available, is at <http://www.microsoft.com/education/StudentMedia.msp>); or
  - (ii) for Products for which a volume licensing key is not required, using volume licensing media acquired pursuant to this agreement via (1) controlled download from a secure network server(s), (2) manual installation at a central location that Institution controls or (3) a system of controlled short-term checkout of applicable volume licensing media solely for purposes of individual user installation.
  - (iii) Institution may also use a Microsoft-approved entity selected by Institution to electronically distribute copies via download from secure network server(s) or other storage device(s), provided Institution or the Microsoft-approved entity controls the download to ensure that the number of permitted copies is not exceeded and those making the download are licensed to do so. For more information on this download option, Institution is advised to contact its reseller who may manage this on Institution's behalf.
- c. **To Students.** Institution may order media to distribute the Products to Students for use in accordance with this agreement. Institution's order for media must specify version number and country of usage. Institution may only use the media received under its Enrollment to transfer Products to eligible Student Users. Products may only be transferred in the same media format that Institution receives under its Enrollment. Orders must be placed with the reseller named on the Enrollment. Institution may use a third party to complete and process eligible Student Users' orders for media under its Enrollment and to distribute media to eligible Student Users. Institution is responsible for the third party's actions. Price and payment terms for media ordered are determined by agreement with Institution's designated reseller. Institution's designated reseller is authorized to purchase media Products from the Microsoft-authorized replicator identified by Microsoft from time to time solely for the purpose of fulfilling orders placed under the Enrollment. Institution's designated reseller may purchase from Microsoft-authorized replicators media and documentation only for those Products available under the Enrollment.

## **8. Redistribution of software updates to Students.**

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

If Microsoft makes available to Institution a replacement software update, Institution agrees to make the replacement available to its Students, within 30 days of receipt in the same quantity and method(s) of distribution, if available, as Institution made the original software update available. The distribution of replacement software updates is subject to the same conditions and restrictions as software updates under this section.

- e. No warranties, exclusion of indirect, special, incidental, consequential, and certain other damages.** Notwithstanding anything to the contrary in this agreement, and to the extent permitted by law, software updates that Institution redistributes to its Students are provided "as is" without any warranties. Institution acknowledges that the provisions of this paragraph with regard to the software updates are reasonable having regard to, among other things, the fact that they are complex computer Products, and their performance will vary depending upon hardware, platform and Products interactions, and configurations.

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

- f. **Limitation of liability.** With respect to Institution's redistribution of the software updates, the limitation of liability provisions in this agreement shall apply in those situations in which Institution or its Users have a right to claim damages or payment from Microsoft.
- g. **No support.** Software updates that Institution redistributes to its students are provided without any support obligation by Microsoft, including any benefits accruing from Software Assurance.
- h. **Applicability.** The provisions of this section shall not apply to distribution of Fixes to Students so long as (1) those Students are licensed under the Student licensing option, and (2) the Fix provided to those Students is for Products licensed to them under Student licensing option. All other redistribution to Students of additional or replacement code is subject to the provisions of this section.

## 9. **Transfer and reassigning Licenses.**

- a. **License transfers.** License transfers are not permitted, except that Institution may transfer fully-paid perpetual licenses to:
  - (i) an Affiliate, or
  - (ii) a third party solely in connection with the transfer of hardware or employees to whom the licenses have been assigned as part of (1) a divestiture of an Affiliate or a division of an Affiliate or (2) a merger involving Institution or an Affiliate.

Institution must notify Microsoft of a transfer of license by completing a transfer notice form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and send the completed form to Microsoft before the license transfer. No License transfer will be valid unless Institution provides to the transferee, and the transferee accepts in writing, the applicable Product use rights, use restrictions, limitations of liability (including exclusions and warranty provisions), and the transfer restrictions described in this section. Any license transfer not made in compliance with this section will be void.

- b. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device with the organization. Licenses may be reassigned within the organization as described in the Product use rights.

## 10. **Confidentiality.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

## 11. **Options upon completion of a Licensed Period.**

Microsoft will provide prior written notice of expiration of an Enrollment. The notice will advise Institution of the option to: (1) extend the Enrollment, (2) submit a new Enrollment, (3) exercise the buy-out option, or (4) allow the Enrollment to expire. Microsoft will not unreasonably reject any extension order or new Enrollment. Each Licensed Period will start the day following the expiration of the prior Licensed Period:

- a. **One-year Licensed Period.** Institution may elect to extend an initial one-year Licensed Period for either (1) up to five consecutive terms of 12 full calendar months by submitting an extension order for each such extension term or (2) one term of 36 full calendar months.
- b. **Three-year Licensed Period.** Institution may elect to extend an initial three-year Licensed Period for either (1) up to three consecutive terms of 12 full calendar months or (2) one term of 36 full calendar months.
- c. **Buy-out option.** Institution may elect to obtain perpetual Licenses for Products licensed under the Enrollment provided it has licensed such Products under one or more Enrollments (including any extensions) under the Agreement (or a predecessor agreement) for at least 36

full calendar months immediately preceding expiration of the Enrollment. Institution must submit a buy-out order at least 30 days prior to expiration of the Enrollment. The buy-out option is not available for Products licensed under the Student licensing option. The Enrollment may provide further information regarding the buy-out order.

- d. **License confirmation.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*
- e. **Allow the Enrollment to expire.** Institution may allow the Enrollment to expire. If the Enrollment expires, all Products must be deleted as provided in section titled "Term and termination."

Except as specifically provided otherwise in the Product use rights, perpetual Licenses acquired through the buy-out option are device Licenses. For example, a License is required for each PC on which Institution desires to run Office.

Because all Licenses acquired under this agreement are temporary, Institution will not be eligible to obtain Software Assurance for those Licenses under any other Microsoft volume licensing program without first acquiring a perpetual License or License and Software Assurance (L&SA).

## 12. **Term and termination.**

- a. **Term.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*
- b. **Termination of the agreement.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*
- c. **Termination of an Enrollment.** Either party may terminate any Enrollment(s) if the other party is in material breach of any obligation, which breach is not cured within 30 days written notice of such breach. Microsoft may terminate this agreement and any Enrollment(s) immediately if Institution fails to continue to qualify as a qualified educational user as identified at Appendix J. If no orders are received under an Enrollment, the Enrollment will be terminated 30 calendar days after the effective date of the Enrollment.
- d. **Effect of termination and Licensed Period expiration.** Users may only run the Products and Fixes according to the terms of this agreement. Users are only licensed to run the Products and Fixes during the Licensed Period. If this agreement is terminated, or if no extension or anniversary order is submitted prior to the expiration of the Licensed Period or the purchase of perpetual Licenses for the Products, then all Products and Fixes that run as a result of this agreement must be deleted when the Licensed Period expires or is otherwise earlier terminated.

Similarly, if Institution stops ordering any Products or Product quantities decrease upon an extension of a Licensed Period, it must delete those Products prior to the beginning of the extended Licensed Period. Institution must make reasonable efforts to ensure that Faculty and Staff work-at-home Users (1) delete and remove Products and Fixes copies from the temporary ram (RAM) and permanent memory (e.g., hard disk) of their home PCs, and (2) disconnect access to any server Products at the end of the Licensed Period.

- e. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service in any country where there is any current or future government requirement or obligation that (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating there, (2) presents a hardship for Microsoft to continue operating the Online Service without modification, and/or (3) causes Microsoft to believe these terms or the Online Service may be in conflict with any such requirement or obligation. For example, Microsoft may modify or terminate an Online Service in connection with a government requirement that would cause Microsoft to be regulated as a telecommunications provider.

- f. **Program updates.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement*

**13. Warranties.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

**14. Defense of infringement, misappropriation, and third party claims.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

**15. Limitation of liability.**

*This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*

**16. Verifying compliance.**

- a. **Right to verify compliance.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*
- b. **Verification process and limitations.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement*
- c. **Remedies for noncompliance.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement.*
- d. Additionally, Institution must use reasonable efforts to make Users aware of the terms and conditions upon which they are allowed to run the Products. Accordingly, Institution must:
- (i) Notify all Users in advance of running the Products that:
    - 1) their use of the Products is subject to the terms of this agreement, including but not limited to limitations on liability, disclaimer of warranties and exclusion of remedies;
    - 2) they are allowed to run the Products only during the Licensed Period;
    - 3) if this agreement is terminated, or Institution does not submit an Enrollment or extension order prior to the expiration of the Licensed Period or purchase perpetual Licenses for the Products, then all Products run under this agreement must be deleted when the Licensed Period expires or is otherwise earlier terminated, whichever is first;
  - (ii) Periodically publish in an Institution wide publication and applicable web sites a reference to the location (either physical or on a computer network) where they can view the Product List and Product use rights. Microsoft publishes a copy of the Product List and Product use rights at <http://www.microsoft.com/licensing/>;
  - (iii) Notify Microsoft immediately if Institution becomes aware of any actual or potential violation of this agreement; and
  - (iv) Provide all reasonable assistance and cooperation as requested by Microsoft to investigate and remedy any unauthorized use of the Products by Users.

If Institution complies with this section, Institution will not be responsible for Student Users' failure to comply with the terms of this agreement.

**17. Miscellaneous** *All of the following sections are intentionally omitted, and are included in the associated Microsoft Business Agreement*

- a. **Notices to Microsoft.**
- b. **No transfer of ownership.**
- c. **Severability.**
- d. **Waiver.**
- e. **Resellers and other third parties cannot bind Microsoft.**
- f. **This agreement is not exclusive.**
- g. **Entire agreement.**
- h. **Assignment.**
- i. **Survival.**
- j. **Applicable law, venue, and jurisdiction.**
- k. **U.S. export.**
- l. **Privacy and security.**
- m. **Subcontractors.**
- n. **Natural disaster.**



# Appendix H- Sample EES Enrollment



## Enrollment for Education Solutions

Enrollment Number <i>Microsoft to complete</i>		Qualifying Enrollment Number (if applicable) <i>Partner to complete</i>	
Previous Enrollment Number (if applicable) <i>Partner to complete</i>		Proposal ID/Framework	NY004

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

Please note that by entering into this Enrollment for Education Solutions (“Enrollment”) Institution, regardless of whether it is a primary/secondary school or a higher/further education entity, becomes part of the Campus Program. Institution’s reseller will use the Campus Program tools and pricing infrastructure to register Institution for this Enrollment. All communications from Microsoft will indicate that Institution is part of the Campus Program.

This Enrollment is entered into between the entities identified in, and as of the effective date listed in, the signature form (“Enrollment Effective Date”). Institution represents and warrants that it is the same Institution that entered into the Campus and School Agreement identified on the signature form (“Agreement”) or an Affiliate of Institution.

This Enrollment consists of (1) this document and the signature form, (2) the associated Microsoft Business Agreement and these Program Agreement terms and conditions and all attachments identified therein and (3) any supplemental contact information form.

**Enrollment Term.** This Enrollment will expire either 12 or 36 full calendar months from the Enrollment Effective Date, depending on Institution’s election below and may be terminated earlier as provided in the Agreement. *Please select **only one** initial Enrollment term option:*

<input type="checkbox"/>	12 Full Calendar Months	<input type="checkbox"/>	36 Full Calendar Months
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**Prior Enrollment.** If renewing Subscription Licenses from a Previous Enrollment or Agreement, the Previous Enrollment or Agreement number must be identified in the designated box above.

### 1. **Contact information.**

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. *The asterisk (“\*”) indicates required fields.* Microsoft may disclose contact information as necessary to administer this Enrollment.

- a. **Primary contact information.** Institution must identify an individual from inside its organization to serve as the primary contact. This contact is also the default online administrator for this Enrollment and will receive all notices unless Institution provides Microsoft written notice of a change. The online administrator may appoint other administrators and grant others access to online information.

**Name of entity (must be legal entity name)\***  
**Contact name\*:** First                      Last  
**Contact email address\***  
**Street address\***

**City\***  
**State/Province\***  
**Postal code\***  
**Country\***  
**Phone**  
**Tax ID**

*\* indicates required fields*

- b. Notices and online access contact information.** Complete this only if Institution wants to designate a notices and online contact different from the primary contact. This contact will become the default online administrator for this Enrollment and receive all notices. This contact may appoint other administrators and grant others access to online information.

Same as primary contact

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

This contact is a third party (not Institution)

Warning: This contact receives personally identifiable information of Institution.

*\* indicates required fields*

- c. Online Services Manager.** This person will receive communications concerning registration for Online Services ordered under this Enrollment. This contact may appoint other administrators and grant others access to online information.

Same as primary contact

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

*\* indicates required fields*

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

- e. Microsoft account manager.** Provide the Microsoft account manager contact for Institution.

**Microsoft account manager name:**

**Microsoft account manager email address:**

- f. Reseller information.**

**Reseller company name\***  
**Street address (PO boxes will not be accepted)\***  
**City\***  
**State/Province\***  
**Postal code\***

**Country\***  
**Contact name\***  
**Phone**  
**Contact email address\***  
*\* indicates required fields*

The undersigned confirms that the information is correct

<b>Name of Reseller*</b>
<b>Signature*</b> _____
<b>Printed name*</b>
<b>Printed title*</b>
<b>Date*</b>

*\* indicates required fields*

**Changing a reseller.** *This section is intentionally omitted and is included in the associated Microsoft Business Agreement*

## **2. Definitions.**

Capitalized terms used but not defined in this Enrollment shall have the meaning given to them in the Agreement.

“Additional Product” means any Product other than a Desktop Platform Product that Institution chooses to license under this Enrollment;

“Alumni” means any Graduate, or former Student, Faculty or Staff of the Institution.

“Desktop Platform Product” means any Product identified on the Product List as such and that Institution chooses to license under this Enrollment (Desktop Platform Products may only be licensed on an Organization-wide basis under this program);

“Faculty” means any employees, contractors and volunteers who teach or perform research for Institution and use an Institution Qualified Desktop;

“Graduate” means a Student who has completed (1) a grade or a level in a school or an educational institution in Institution’s Organization that qualifies the Student for enrollment into college or university or (2) a diploma or degree from a college or university in Institution’s Organization;

“Organization” means the organization as defined by Institution in the section of this Enrollment titled “Defining Institution’s Organization”;

“Organization-wide Count” means the total quantity of Faculty and Staff in Institution’s Organization as listed in the table in the section of this Enrollment titled “Choosing licensing options; license grant.”;

“Platform Online Service” means any Online Service identified on the Product List as such and that Institution chooses to license under this Enrollment. Platform Online Services are treated as Online Services, except as noted;

“Previous Enrollment or Agreement” means a School Subscription Enrollment, a Campus Subscription Enrollment, an Enrollment for Education Solutions, or an Open Value Subscription Agreement for Education Solutions;

“Qualified Desktop” means a device that is owned, leased or controlled by Institution (other than a Student Qualified Desktop) that is used for the benefit of Institution’s Organization (or by or for the benefit of Students enrolled in Institution’s Organization, if applicable) and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment), or (2) a device used to access a virtual desktop infrastructure (“VDI”). Qualified Desktops do not include any device that is: (1) designated as a server

and not used as a personal computer or (2) an Industry Device or (3) not managed (as defined in the Product List at the start of the applicable initial or renewal term of the Enrollment) as part of Institution's Organization.

"Qualified User" means a User who (1) is a user of a Qualified Desktop or (2) accesses any server software or online services licensed within Institution's Organization. It does not include a person who accesses server software or online services solely under a license identified in the Qualified User Exemptions in the Product List;

"Qualifying Enrollment" means an Enrollment for Education Solutions, the minimum requirements of which were met (i.e., a Qualifying Enrollment was not used) and which was entered into by Institution or Institution's Affiliate, each active and valid upon signing of this Enrollment. Institution must have been included in the Organization under an Enrollment for Education Solutions that is used as the Qualifying Enrollment;

"Staff" means any non-Faculty employees, contractors and volunteers who perform work for Institution and use an Institution Qualified Desktop;

"Student" means any student enrolled in any educational institution that is part of Institution's Organization, whether on a full-time or part-time basis;

"Student Count" means the total quantity of Students in Institution's Organization as listed in the table in the section titled "Licensing options; license grant."; and

"Student Qualified Desktop" means a Qualified Desktop owned or leased by a Student or that is owned or leased by Institution's Organization and assigned for individual, dedicated use by a Student.

For the avoidance of doubt, the term "Customer" as used in certain supplemental forms (for example the program signature form) has the same meaning as "Institution."

### **3. Overview of the Enrollment for Education Solutions.**

This Enrollment allows Institution to license Products on a subscription basis across its Organization. Institution determines how it defines its Organization. Institution can select from two different licensing options, Faculty and Staff or Students, depending on the Users it wishes to cover.

The minimum requirements for this Enrollment are as follows:

Institution must order at least one Desktop Platform Product for Organization-wide Count of at least 250  
OR

Institution must order at least one Platform Online Service for Staff / Faculty in a quantity of 250 OR

Institution must order at least one Desktop Platform Product for Student Count of at least 250 OR

Institution must order at least one Platform Online Service for Students in a quantity of 250

The minimum requirements listed above are waived if Institution has a Qualifying Enrollment.

Microsoft may refuse to accept this Enrollment if it has a business reason for doing so. At the end of the applicable term, Institution has the option to extend the Enrollment, enter into a new Enrollment, let the Enrollment expire, or, if applicable, buy out perpetual Licenses.

### **4. Defining Institution's Organization.**

Define the Organization by choosing one of the options below. *Please select **only one** option.*



Institution must provide an Organization-wide Count and/or Student FTE count even if only ordering Platform Online Services to meet Enrollment minimum requirements.

Category Licensed	Institution's Selection	Organization-wide Count and/or Student Count, as applicable
1. Faculty and Staff	<input type="checkbox"/>	
2. Students	<input type="checkbox"/>	

**License grant.** So long as Institution places orders pursuant to the agreement and this Enrollment for any required Licenses and pays per the agreement with its reseller, Institution (and/or its Students, as applicable) will have the following rights during the term of this Enrollment:

If the Faculty and Staff option is chosen, each Qualified User in Institution's Organization (including Students and public users of Qualified Desktops in an open lab) may run the Desktop Platform Products, and the Additional Products licensed on an Organization-wide basis, on any Institution Qualified Desktops. Institution is not required to count members of the public who access PCs that remain in Institution's open access lab(s) or libraries. Institution may not permit remote access to software installed on PCs in open access labs or libraries.

In the case of CALs, Institution may assign (1) a device CAL to each Institution Qualified Desktop and (2) a user CAL to each Faculty and Staff member, in both cases to access Institution's associated server software.

If the Student option is chosen, each Student in the Organization may run one license of the Desktop Platform Products, and one license of the Additional Products licensed Organization-wide, on a Student Qualified Desktop. In the case of CALs, Institution may assign a user CAL to each Student to access Institution's associated server software.

Institution may run as many copies of other Additional Product(s) it wishes so long as it places an order pursuant to the agreement and this Enrollment for required Licenses and pays per the agreement with its reseller. Order quantities must be equal to the number of copies Institution runs.

If Institution is licensing Office 2010 and SharePoint Server 2010 CAL (Enterprise or Standard) for Faculty and Staff in its Organization under this Enrollment, then Institution's Students and their parents may use Office Web Applications at no charge for the purpose of Students' education at Institution. There is no buy-out option for Office Web Applications.

## 6. Price levels and prices.

**Price levels.** Institution's Organization-wide Count determines the price level of Desktop Platform Products ordered under the Faculty and Staff option. Institution's Student Count determines the price level of Desktop Platform Products ordered under the Student option. If Institution chooses to extend this Enrollment, the price level will be reset at the start of the extension term based on Institution's Organization-wide Count and/or Student Count at the time the extension order is placed. There are no price levels for Additional Products. Institution's price level does not change during the term of the Enrollment.

Select Price Level that Applies to Faculty and Staff Option	Organization Wide Count	Price level (Only Applicable For Desktop Platform products)
<input type="checkbox"/>	250	A
<input type="checkbox"/>	3,000	B
<input type="checkbox"/>	10,000	C
<input type="checkbox"/>	25,000	D

Select Price Level that Applies to Student Option	Student Count	Price level (Only Applicable For Desktop Platform products)
<input type="checkbox"/>	250	A
<input type="checkbox"/>	3,000	B
<input type="checkbox"/>	10,000	C
<input type="checkbox"/>	25,000	D

**Prices.** Institution's actual prices will be determined by agreement between Institution and its reseller. However, Microsoft will provide the reseller with pricing at the outset of this Enrollment and agrees that it will not increase the prices that it charges the reseller for the Products during the term of the Enrollment from when they order the product for the first time under the enrollment.

## 7. How to order Products.

- a. **Price and payment terms.** Price and payment terms for all Licenses ordered will be determined by agreement between Institution and its reseller.
- b. **Placing the initial order.** Orders must be submitted within 30 days of the Enrollment Effective Date.
  - (i) The initial order under the Enrollment must contain at least one Desktop Platform Product for Organization-wide Count or Student Count OR at least one Platform Online Service for 250 licenses for either Faculty / Staff or Students
  - (ii) Orders for Desktop Platform Products and all component products that are part of the Desktop Platform Products must be for Institution's then-current Organization-wide Count.
  - (iii) Orders for Platform Online Services must be for at least 250 and must be ordered in the exact quantity needed.
  - (iv) Once the enrollment minimum requirements have been met, Other Online Services for Faculty/Staff must be ordered in the exact quantity (in any quantity).
  - (v) Additional Products must be ordered in exact quantities needed (in any quantity.) Certain Additional Products may instead be ordered for the Organization-wide Count, as described in the Product List.
  - (vi) Products offered under the Student Offering must be ordered for the full Student Count except Online Services. Once the enrollment minimum requirements have been met, Other Online Services under the Student Offering must be ordered in the exact quantity needed (in any quantity).
- c. **Adding new Products not previously ordered (non-anniversary).** Orders can be submitted for Products that were not part of the initial order. The order must be placed in the month in which copies of the Product(s) are first run.
  - (i) Orders for Desktop Platform Products and all component products that are part of the Desktop Platform Products must be for Institution's then-current Organization-wide Count.
  - (ii) Orders for Platform Online Services must be for at least 250 and must be ordered in the exact quantity needed.
  - (iii) Once the enrollment minimum requirements have been met, Other Online Services for Faculty/Staff must be ordered in the exact quantity (in any quantity).

- (iv) Additional Products must be ordered in exact quantities needed (in any quantity.) Certain Additional Products may instead be ordered for the Organization-wide Count, as described in the Product List.
- (v) Products offered under the Student Offering must be ordered for the full Student Count except Online Services. Once the enrollment minimum requirements have been met, Other Online Services under the Student Offering must be ordered in the exact quantity needed (in any quantity).

The Licensed Period for additional orders will be the same as the Enrollment Licensed Period.

**d. Adding more copies of Products previously ordered (non-anniversary).**

- (i) For Desktop Platform Products, and Additional Products licensed Organization-wide, Institution does not need to submit orders to increase the number of copies run. However, increases in Organization-wide Count and/or Student Count, as applicable, must be reported at each anniversary of the Enrollment Effective Date.
- (ii) Except as provided in subsection d(i) above, Additional Products and Online Services are licensed based on the number of Licenses acquired. At any time during the Licensed Period (including any extension), Institution may run additional copies of any previously ordered Additional Products, provided it submits orders for such copies. The order must be placed in the month in which those copies are first run.

Microsoft will invoice the reseller for the Products ordered on a pro-rated basis corresponding to the number of full calendar months remaining in the Licensed Period to a minimum of 6 months. Online Services will be invoiced on a pro-rated basis corresponding to the full calendar months remaining in the Licensing Period to a minimum of 1 month. Microsoft will use the price list in effect on the date of the invoice to charge Institution's reseller for the additional Licenses. When adding more copies of products previously ordered, Microsoft will use the pricelist in effect when the product was initially ordered to charge Institution's reseller for the additional Licenses.

**e. Extension orders and subsequent annual orders.** Institution must submit orders based on the following:

- (i) **One-year Licensed Period.** An extension order must be submitted to extend the Enrollment for another Licensed Period. The extension order must be received by Microsoft prior to the expiration of the Licensed Period. The Product selection and quantity ordered can be changed at each extension order.
- (ii) **Three-year Licensed Period.** An anniversary order must be received by Microsoft prior to each anniversary of the Enrollment Effective Date of the three-year Licensed Period, and a subsequent extension order must be received by Microsoft prior to the expiration of the initial three-year Licensed Period. Each anniversary order must be for at least the same Product selection and total quantity as ordered during the one-year period in which the Product was first ordered, except for step-ups.

**f. Buy-out order.** If a buy-out option is available, a buy-out order quantity for Licenses for Desktop Platform Products, and Additional Products licensed Organization-wide, shall be at least equal to the Organization-wide Count but shall not exceed the total quantity of Qualified Desktops in Institution's Organization on the date of the buy-out order. The buy-out order quantity for other Additional Products shall be the lowest total quantity of copies ordered during any of the three 12 month periods immediately preceding expiration of the Enrollment.

**g. How to confirm orders.** Microsoft will publish information about orders placed by Institution, including an electronic confirmation of each order on a password-protected site on the World Wide Web at <https://www.microsoft.com/licensing/servicecenter> or a successor site. Upon Microsoft's acceptance of this Enrollment, the contact identified for this purpose will be provided access to this site.

- h. Step up to a higher Product edition.** If a previously ordered Product has multiple editions, Institution may migrate to the higher edition by stepping up (e.g. from Core CAL to Enterprise CAL or from SQL Server Standard Edition to SQL Server Enterprise Edition.) The order requirements set forth in subsection 7c above apply.

## **8. Work at home rights.**

During the Licensed Period, Faculty and Staff members who are the primary users of an Institution Qualified Desktop running a Product licensed by Institution may run one copy of that Product on a home PC that they own or lease (or, for work at home rights for a Client Access License, to access the server Product(s) licensed by Institution from a home PC that they own or lease), for work-related purposes only; provided that in the case of work at home rights for Desktop Platform Products and Additional Products licensed Organization-wide the total number of Faculty and Staff members exercising work at home rights may not exceed Institution's Organization-wide Count and for other Additional Products the total number of Faculty and Staff members may not exceed the number of Licenses acquired for such Additional Products. If Institution upgrades the Product on the Qualified Desktop used by the Faculty or Staff member, the latter may upgrade the corresponding copy on the home PC. If the Faculty or Staff member leaves Institution, the work at home rights for such member end and the copy of the Product must be removed from the home PC. Though Microsoft may offer both work at home rights and home use program rights under Software Assurance for a Product, Institution must choose either work at home rights or home use program rights for such Product.

## **9. Perpetual Licenses for Graduates.**

For any Students licensed to run any Products on a Student Qualified Desktop, Institution may at any time during the Enrollment term transfer to any Graduate the perpetual right to run each such Product. Institution must provide each such Graduate with a license agreement in the form provided by Microsoft. Institution must secure the Graduate's acceptance of the terms of the license agreement. Upon acceptance of the license agreement, the Graduate's right to run the Products identified in the license confirmation becomes perpetual. These rights do not apply to access licenses, including CALs, or to Online Services.

## **10. Education Server Platform Licensing Option.**

If Institution licenses one or more of the CAL Products and the corresponding Server Platform Product(s) listed in the table below, Institution may run unlimited instances of any available edition of the corresponding server Products that constitute the Server Platform Products.

Institution must license each selected CAL Product and corresponding Server Platform Product for the aggregate of Institution's Organization-wide Count (at least 1000) *and* Student Count (at least 1000) as listed in the section entitled "Licensing options; license grant" above.

Unless Institution chooses to step up to a higher Product edition, Institution must include the Products selected from the table below with each anniversary order. If there is an increase in Product quantity used, Institution must submit an order for all CAL and Server Platform Products used but not ordered during the previous Enrollment year. Institution may aggregate CAL Product quantities acquired under a Qualifying Enrollment to meet quantity requirements of this Enrollment, provided that such Qualifying Enrollment or its successor is valid and in effect during the term of this Enrollment.

Server Platform Products licensed under this licensing option may only be used by Faculty, Staff and Student Users in Institution's Organization and by licensed external users using the Server Platform Products for the benefit of Institution's Organization.

Products Licenses acquired under this section may not be transferred to Graduates. Institution may buy out CAL Products but not Server Platform Products Licenses acquired under these terms. Institution is prohibited from transferring Licenses acquired under this section.

Institution agrees that Institution's use of the server Products that constitute the Server Platform Products is subject to the Product Use Rights.

Product Selection			
	CAL Product Selected	Server Platform Product Selected	Server Product included for Unlimited Deployment
<input type="checkbox"/>	SQL Server CALs	SQL Server Platform Academic	Unlimited Licenses for all editions of the corresponding server Products, plus all editions of BizTalk Server and associated external connectors.
<input type="checkbox"/>	Core CALs (acquired standalone or as part of a platform)	Core Server Platform Academic	Unlimited Licenses for all editions of the corresponding server Products, and associated external connectors.
<input type="checkbox"/>	Enterprise CALs (acquired standalone, as a step-up, or as part of a platform)	Enterprise Server Platform Academic	Unlimited Licenses for all editions of the corresponding server Products and external connectors, plus FAST search for Share Point, Forefront TMG Servers, and associated server management software.

## 11. Qualifying systems Licenses.

The desktop operating system Licenses granted under this program are upgrade Licenses only. Full desktop operating system Licenses are not available under this program. If Institution selects the Windows Desktop Operating System Upgrade, all Qualified Desktops on which Institution runs the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at <http://www.microsoft.com/licensing/contracts>. Note that the list of operating systems that qualify for the Windows Desktop Operating System Upgrade varies with the circumstances of the order. That list is more extensive at the time of the initial order than it is for some system refreshes during the term of this Enrollment. Exclusions are subject to change when new versions of Windows are released.

*For example: The following are not considered qualifying operating systems: (1) embedded operating systems; (2) Linux; and (3) OS/2. These are examples of exclusions only. Please see Product List for all current qualifying operating systems.*

## 12. Options upon completion of a Licensed Period.

Microsoft will provide prior written notice of expiration of the Enrollment. The notice will advise Institution of the option to: (1) extend the Enrollment, (2) submit a new Enrollment, (3) exercise the buy-out option, or (4) allow the Enrollment to expire. Microsoft will not unreasonably reject any extension order or new Enrollment. Each Licensed Period will start the day following the expiration of the prior Licensed Period:

- a. **One-year Licensed Period.** Institution may elect to extend an initial one-year Licensed Period for either (1) up to five consecutive terms of 12 full calendar months by submitting an extension order for each such extension term or (2) one term of 36 full calendar months.
- b. **Three-year Licensed Period.** Institution may elect to extend an initial three-year Licensed Period for either (1) up to three terms of 12 full calendar months or (2) one term of 36 full calendar months.

- c. Buy-out option.** Institution may elect to obtain perpetual Licenses for Products licensed under this Enrollment provided it has licensed such Products under one or more Enrollments (including any extensions) under the Agreement (or a predecessor agreement) for at least 36 full calendar months immediately preceding expiration of this Enrollment. Institution must submit a buy-out order at least 30 days prior to expiration of this Enrollment. The buy-out option is not available for Products licensed under the Student option.

Except as specifically provided otherwise in the Product use rights, perpetual Licenses acquired through this buy-out option are device Licenses. The license grant in the section entitled "License options; license grant" above does not apply to such perpetual Licenses. For example, a License is required for each Qualified Desktop on which Institution desires to run Office.

