

Campus and School Agreement

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This agreement is entered into between the entities identified on the signature form.

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

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

Please note: Documents referenced in this agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated by reference, including the Product List, Product Use Rights and the Qualified Educational User definition. These documents may contain additional terms and conditions for Products licensed under this 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, any qualified educational user identified at <http://www.microsoft.com/licensing/contracts> that Institution owns or controls, that owns or controls Institution, or that is under common ownership or control with Institution. “Ownership” means, for purposes of this definition, control of more than a 50% interest in an entity; and
- b. with regard to Microsoft, any 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, Institution through Institution’s use of the Online Services or in connection with Services.

“Enrollment” means the document that Institution submits under this agreement to place orders for Products and Services.

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

“Fix” means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as service packs) or that Microsoft provides to Institution when performing Services to address a specific issue.

“Institution” means the entity that is a Qualified Educational User (as defined at <http://www.microsoft.com/licensing/contracts>) as of the effective date of this agreement that has entered into this agreement with Microsoft or an Affiliate of Institution 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 download, install, access and use a Product. Under this agreement, Licenses are available only on a subscription basis. Licenses for Online Services will be considered Subscription Licenses under this 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 an Enrollment and its Affiliates, as appropriate.

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

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

“Product” means all products identified on the Product List, such as all software, Online Services and other web-based services, including pre-release or beta versions. Products may be available under programs that vary by region.

“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. The Product List includes any Product-specific conditions or limitations on the acquisition of Licenses for, or the 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.

“Services” means all support, consulting and other services or advice, including any resulting deliverables provided to Institution by Microsoft. “Services” does not include Online Services.

“Services Deliverables” means any computer code or materials, other than Products or Fixes that Microsoft leaves with Institution at the conclusion of Microsoft’s performance of Services.

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

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

“Software Updates” means additional or replacement code for any portion of a Product that Microsoft may make available to the general public without a fee from time to time.

“Statement of Services” means any work orders, services descriptions, or other statements of services referencing this agreement and any parts of an Enrollment that relate to the delivery of Services.

“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 the Organization, whether on a full-time or part-time basis.

“Student Media” means, collectively, student-media CD-ROM or disk sets.

“Subscription License” means, for purposes of this agreement, a fixed term License that expires when the Enrollment expires or is terminated, unless the buy-out option is exercised. Any License ordered under the Enrollment is a Subscription License.

“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 with.

“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 Institution to choose a one-year Licensed Period or a three-year Licensed Period, with Institution designating its choice in the Enrollment.

One-year Licensed Period. Institution must submit an order to indicate the Products it chooses to run. Thereafter, Institution must submit extension orders to continue the subscription for the Products for an additional term. If Institution does not submit an extension order prior to the end of its subscription term, the Enrollment will expire according to its terms.

Three-year Licensed Period. Institution must submit an order to indicate the Products it 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 section 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 price it charges to the reseller for an annual extension of a License 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 immediately preceding 12-month Licensed Period if Institution submits an extension order prior to the expiration of the Enrollment for the same Products in the same quantities as ordered in the expiring Licensed Period.

Three-year Licensed Period. If Institution chooses a three-year Licensed period and complies with the ordering requirements in the agreement, for any Products ordered during the Licensed Period, Microsoft will charge the distributor or reseller the same price for a License on each anniversary order as when Institution first ordered the Product, except for step-ups.

4. License for Products.

- a. **License Grant.** Microsoft grants the Organization a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this agreement, the Product Use Rights and the Product List. Microsoft reserves all rights not expressly granted in this agreement.
- b. **Duration of Licenses.** Subscription Licenses are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrollment is renewed or Institution exercises a buy-out option, which is available for some Subscription Licenses.
- c. **Applicable Use Rights.**
 - (i) **Products (other than Online Services).** 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.

- (ii) **Online Services.** For Online Services, the Product Use Rights in effect on the subscription start date will apply to Organization's use of the Online Service for the first 12 months of the subscription term, except as otherwise noted in the Product Use Rights. The process for updating the applicable user rights are detailed in the Product Use Rights.
- d. **Earlier versions (downgrade rights).** Organization may use an earlier version of a Product than the version that is current on the effective date of the Enrollment. In that case, the Product Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Product Use Rights applicable to the earlier version apply with respect to those features.
- e. **Multi-language rights.** Organization may run Products in any available language version. If Organization is using any different language version of any Product licensed under its agreement, Organization's use of the different language version will be governed by the Product Use Rights for the version licensed under this agreement.
- f. **License Confirmation.** This agreement, the applicable Enrollment, and Institution's order confirmation, together with proof of payment, will be Institution's evidence of all Licenses obtained under its Enrollment as described in this agreement.
- g. **Restrictions on Use.** Without limiting the use restrictions described in this agreement, the Product List, the Product Use Rights, and any applicable Statement of Work, Organization may not:
 - (i) 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;
 - (ii) Distribute, rent, lease, host to or for third parties, or lend any copy of the Products or Fixes, except as permitted by this agreement or in a separate written agreement;
 - (iii) reverse engineer, decompile or disassemble the Products, Fixes or Services Deliverables except to the extent expressly permitted by applicable law despite this limitation; or
 - (iv) make copies of the Products, Fixes or Services Deliverables and distribute them on media to Students except as permitted in this agreement.

5. Use, ownership, rights, and restrictions.

- a. **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.
- b. **Pre-Existing Work.** All rights in any computer code or non-code based written materials developed or otherwise obtained by or for Microsoft or its Affiliates; independent of this agreement ("Pre-existing Work") shall remain the sole property of the entity providing the Pre-existing Work. During the performance of Services, Microsoft and Institution grant to each other (and Microsoft's Contractors as necessary) a temporary, non-exclusive license to use, reproduce and modify any of its Pre-existing Work provided to the each other, solely as needed to perform its obligations in connection with the Services.

Except as may be otherwise expressly agreed by the parties in writing, Microsoft grants Institution a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify (if applicable) any Microsoft Pre-existing Work provided as part of a Services Deliverable, solely in the form delivered to Institution, and solely for Institution's internal business purposes.

- c. **Materials.** All rights in any materials developed by Microsoft (other than software code) and provided to Institution in connection with the Services ("Materials") shall be owned by Microsoft except to the extent such Materials constitute Institution's Pre-existing Work. Upon payment in full, Microsoft grants Institution a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify the Materials solely for Institution's internal business operations and without any obligation of accounting or payment of royalties. Institution may sublicense the rights granted herein to its Affiliates. Neither Institution nor its Users may make copies of the Materials and distribute them on media to Students. All rights not expressly granted, are reserved.
- d. **Sample Code.** Microsoft grants Institution a nonexclusive, perpetual, royalty-free right to use and modify any software code provided by Microsoft for the purposes of illustration ("Sample Code") and to reproduce and distribute the object code form of the Sample Code, provided that Institution agrees: (1) to not use the Microsoft name, logo, or trademarks to market any software product in which the Sample Code is embedded; (2) to include a valid copyright notice on Institution's software product in which the Sample Code is embedded; and (3) to indemnify, hold harmless, and defend Microsoft and Microsoft's suppliers from and against any claims or lawsuits, including attorneys' fees, that arise or result from the use or distribution of the Sample Code. Neither Institution nor its Users may make copies of the Sample Code and distribute them on media to Students.
- e. **Non-Microsoft software and technology.**
 - (i) Institution is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products, Fixes, or Services Deliverables. Microsoft is not a party to and is not bound by any terms governing Institution's use of non-Microsoft software or technology. Without limiting the foregoing, non-Microsoft software or scripts linked to or referenced from any Product website, are licensed to Institution under the open source licenses used by the third parties that own such code, not by Microsoft.
 - (ii) If Institution installs or uses any non-Microsoft software or technology with the Products, Fixes, or Services Deliverables, it directs and controls the installation in and use of such software or technology in the Products, Fixes, and Services Deliverables through its actions (e.g., through Institution's use of application programming interfaces and other technical means that are part of the Online Services). Microsoft will not run or make any copies of such non-Microsoft software or technology outside of its relationship with Institution.
 - (iii) If Institution installs or uses any non-Microsoft software or technology with the Products, Fixes, or Services Deliverables, it may not do so in any way that would subject Microsoft's intellectual property or technology to obligations beyond those included in this 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 acquired 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) re-imaged must be identical to the Product type licensed from the separate source.
- (iv) Any Product-specific processes or requirements for re-imaging identified in the Product List.
- (v) Re-imaged Products remain subject to the terms and use rights provided with the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

7. Distributing media.

- a. **To Faculty and Staff.** Institution may acquire the quantity of media necessary to distribute a licensed Product 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 copy volume licensing media acquired from a Microsoft-approved fulfillment source solely for distribution to Faculty and Staff Users. All copies of volume licensing media 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 individuals authorized to engage in the installation and support of the Products on behalf of the Institution. Institution may not disclose volume licensing keys to Faculty and Staff work-at-home Users or to student Users 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, Institution must appropriately restrict and regulate access to media by Faculty and Staff for work at home purposes and by student Users. All media for Products distributed to Faculty and Staff for work at home purposes and to student Users 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 Student Media are purchased for a particular Product, Institution may distribute one copy of Student Media directly to each authorized work at home User or student User. Student Media may contain Product activation features that limit the number of authorized installations of a Product. Institution is advised to contact its reseller for details on ordering and distributing Student Media.
 - (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 use a Microsoft-approved entity selected by Institution to electronically distribute copies of a Product via download from a secure network server or other storage device, provided Institution or the Microsoft-approved entity controls the download to ensure that the number of permitted copies of the Product 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 Users.** Institution may order media to distribute a Product to Students for use in accordance with this agreement. Institution's order for such media must specify the version number of the Product and country of usage. Institution may only use the media

received under its Enrollment to distribute Products to eligible student Users. Products may only be distributed in the same media format that Institution receives under its Enrollment. Orders for media 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 Institution's Enrollment and to distribute such 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 media and documentation from Microsoft-authorized replicators only for those Products available under the Enrollment.

8. Redistribution of Software Updates to Student Users.

- a. License grant.** Microsoft grants Organization a limited, non-exclusive, royalty-free, non-assignable, non-transferable, revocable License to distribute Software Updates to Institution's student Users in accordance with the terms of this section. Organization's student Users 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.** Organization may redistribute Software Updates to its student Users (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) by acquiring authorized copies on fixed media from a fulfillment source approved by Microsoft.
- c. Limitations.** Organization 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 student Users; (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.** Organization 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 Institution agrees to (1) return to Microsoft or destroy all copies of Software Updates in Organization's possession and (2) notify Organization's student Users of the recall by the same or similar means in which they were notified of the availability of the Software Updates.
- e. Replacement Software Updates.** If Microsoft makes available to Organization a replacement Software Update, Organization agrees to make the replacement available to its student Users, within 30 days of receipt in the same quantity and method(s) of distribution, if available, as Organization made the original Software Update available. The distribution of replacement Software Updates is subject to the same conditions and restrictions as other Software Updates under this section.
- f. No warranties.** Notwithstanding anything to the contrary in this agreement, and to the extent permitted by law, Software Updates that Organization redistributes to its student Users are provided "as is" without any warranties. Institution acknowledges that the provisions of this paragraph with regard to the Software Updates are reasonable considering, among other things, that the Software Updates are complex computer products. Institution further acknowledges that the performance of the Software Updates will vary depending upon hardware, platform and Products interactions, and configurations.

- g. **Exclusion of damages.** 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 ORGANIZATION'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.
- h. **Limitation of liability.** With respect to Organization's redistribution of the Software Updates, the limitation of liability provisions in this agreement shall apply in those situations in which Organization or its Users assert a right to damages or other compensation from Microsoft.
- i. **No support.** Institution understands that Microsoft has no obligation to provide any support for Software Updates that Organization may redistribute to its student Users, including any benefits accruing from Software Assurance.
- j. **Applicability.** The provisions of this section shall not apply to the distribution of Fixes to student Users so long as the Fix distributed is for a Product the Students are authorized to run under the Student licensing option. All other redistribution of additional or replacement code to Students 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.
- b. **Notification of License Transfer.** Institution must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending 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.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the organization. Licenses and Software Assurance may be reassigned within the organization as described in the Product Use Rights.

10. Service Business Rules

All Services provide support for commercially released, generally available Products (unless specifically excluded on the Microsoft Premier On-Line Web site or the Microsoft Support Lifecycle Web site). Services will generally be charged on an hourly basis, provided remotely, and in English (unless another language is available). Services will be provided in the country in which the agreement is signed. On-Site visits are not pre-paid and are subject to resource availability. All Services not consumed on an annual basis will be forfeited. Upon Institution's request, Microsoft may access Institution's system via remote dial-in to analyze problems. Institution must have access to the Internet in order to take advantage of Internet-based services.

11. Confidentiality.

- a. **What is included.** “Confidential Information” is non-public information, know-how and Trade Secrets in any form that
- (i) are designated as “confidential”; or
 - (ii) a reasonable person knows or reasonably should understand to be confidential; or
 - (iii) include non-public information regarding either party’s products or customers, marketing and promotions, or the negotiated terms of Microsoft agreements.
- b. **What is not included.** The following types of information, however designated, are not Confidential Information. Information that:
- (i) is, or becomes, publicly available without a breach of this agreement;
 - (ii) was lawfully known to the receiver of the information without an obligation to keep it confidential;
 - (iii) is received from another source who can disclose it lawfully and without an obligation to keep it confidential;
 - (iv) is independently developed; or
 - (v) is a comment or suggestion one party volunteers about the other’s business, products or services.
- c. **Treatment of Confidential Information.**
- (i) **In general.** Subject to the other terms of this agreement, each party agrees:
 - 1) it will not disclose the other’s Confidential Information to third parties; and
 - 2) it will use and disclose the other’s Confidential Information only for purposes of the parties’ business relationship with each other.
 - (ii) **Security precautions.** Subject to the other terms of this agreement, each party agrees:
 - 1) to take reasonable steps to protect the other’s Confidential Information -- these steps must be at least as protective as those the party takes to protect its own Confidential Information;
 - 2) to notify the other promptly upon discovery of any unauthorized use or disclosure of Confidential Information; and
 - 3) to cooperate with the other to help regain control of the Confidential Information and prevent further unauthorized use or disclosure.
 - (iii) **Sharing Confidential Information with Affiliates and representatives.**
 - 1) A “Representative” is an employee, contractor, advisor, or consultant of one of the parties or of one of the parties’ Affiliates.
 - 2) Each party may disclose the other’s confidential information to its Representatives (who may then disclose that Confidential Information to other of that party’s Representatives) only if those Representatives have a need to know about it for purposes of the parties’ business relationship with each other. Before doing so, each party must:
 - A. ensure that Affiliates and Representatives are required to protect the Confidential Information on terms consistent with this agreement; and
 - B. accept responsibility for each Representative’s use of Confidential Information.
 - 3) Neither party is required to restrict work assignments of Representatives who have had access to Confidential Information. Neither party can control the incoming information the other will disclose to it in the course of working together, or what that party’s Representatives will remember, even without notes or other aids. Each party agrees that use of information in Representatives’ unaided memories in the development or deployment of the parties’ respective products or services does

not create liability under this agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

(iv) **Disclosing Confidential Information if required to by law.** Each party may disclose the other's Confidential Information if required to comply with a court order or other government demand that has the force of law. Before doing so, each party must seek the highest level of protection available and, when possible, give the other enough prior notice to provide a reasonable chance to seek a protective order.

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

12. 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. However, Microsoft may make a change to this volume licensing program that will make it necessary for Institution to first enter into new agreement. 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 (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. To exercise its buy-out option, Institution must submit a buy-out order no more than 30 days prior to expiration of the Enrollment. The expiration date will be the invoice date for the buy-out order. The buy-out option is not available for Products licensed under the Student licensing option. 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.

d. **License confirmation.** The order confirmation for the buy-out and any documentation evidencing transfers of Licenses, together with proof of payment, will be evidence of a perpetual License to run the latest version then available (or any prior version) for the copies of Products covered by the buy-out order.

e. **Expiration of Enrollment.** Institution may allow the Enrollment to expire. If the Enrollment expires, all software Products must be uninstalled and destroyed, and Organization must discontinue use. 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).

13. Term and termination.

a. **Term.** This agreement will remain in effect unless terminated by either party as described below. These general terms and conditions apply to all Enrollments submitted. The terms of any Enrollment(s) will be for the Licensed Period as specified in such Enrollment(s).

b. **Termination of the agreement.** Either party may terminate this agreement without cause upon 60 days' written notice. In the event of termination, new Enrollments will not be

accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this agreement.

- c. **Termination of an Enrollment.** Without limiting any other remedies it may have, 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 of receipt of 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 <http://www.microsoft.com/licensing/contracts>. 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 or jurisdiction 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.
- f. **Program updates.** Microsoft may make a change to this program that will make it necessary for Institution to enter into a new agreement and Enrollment(s) at the time of an Enrollment renewal.

14. **Warranties.**

- a. **Limited warranty.** Microsoft warrants that:
 - (i) Online Services will perform in accordance with the applicable Service Level Agreement;
 - (ii) Products other than Online Services will perform substantially as described in the applicable Microsoft user documentation; and
 - (iii) Services will be performed with professional care and skill.
- b. **Limited warranty term.** The limited warranty for:
 - (i) Online Services is for the duration of Organization's use of the Online Service, subject to the notice requirements in the applicable Service Level Agreement;
 - (ii) Products other than Online Services is one year from the date Organization first uses the Product; and
 - (iii) Services is 90 days from delivery of a services Deliverable, unless otherwise agreed.
- c. **Limited warranty exclusions.** This limited warranty is subject to the following limitations:
 - (i) the limited warranty does not cover problems caused by accident, abuse or use in a manner inconsistent with this agreement or the Product Use Rights, or resulting from events beyond Microsoft's reasonable control;

- (ii) the limited warranty does not apply to components of Products that Organization is permitted to redistribute;
 - (iii) the limited warranty does not apply to free, trial, pre-release, or beta products; and
 - (iv) the limited warranty does not apply to problems caused by the failure to meet minimum system requirements.
- d. Remedies for breach of limited warranty.** If Microsoft fails to meet any of the above limited warranties and Institution notifies Microsoft within the warranty period, then Microsoft will:
- (i) for Online Services, provide the remedies identified in the Service Level Agreement for the affected Online Service;
 - (ii) for Products other than Online Services, at its option either (1) return the price paid or (2) repair or replace the Product; and
 - (iii) for Services, at its option either (1) return the price paid for the specific Service or (2) re-perform the specific Service.
- These are Institution's only remedies for breach of the limited warranty, other than remedies required to be provided under applicable law.
- e. DISCLAIMER OF OTHER WARRANTIES. OTHER THAN THIS LIMITED WARRANTY, MICROSOFT PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS. MICROSOFT DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES, OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE, OR NON-INFRINGEMENT. THESE DISCLAIMERS APPLY UNLESS APPLICABLE LAW DOES NOT PERMIT THEM. Any warranties, guarantees or conditions not able to be disclaimed as a matter of law last for one year from the start of the limited warranty.**

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

- a. Microsoft's agreement to protect.** Microsoft will defend Institution against any claims made by an unaffiliated third party that (1) any Product, Fix or Services Deliverable made available by Microsoft for a fee infringes that party's patent, copyright or trademark or makes unlawful use of its Trade Secret, or (2) arising from Microsoft's provision of an Online Service in violation of laws applicable to Microsoft as a service provider. Clause (2) will not apply to (a) any laws or regulations applicable to Institution or Institution's industry that are not also generally applicable to information technology security providers, and (b) any violations of laws or regulations related to a claim covered under clause (1). Microsoft will also pay the amount of any resulting adverse final judgment (or settlement to which Microsoft consents). This section provides Institution's exclusive remedy for these claims.
- b. Limitations on defense obligation.** Microsoft's obligations under (a)(1) above will not apply to the extent that the claim or award is based on:
- (i) Customer Data, non-Microsoft software, modifications Institution makes to, or any specifications or materials Institution provides or makes available for, a Product, Fix or Services Deliverable;
 - (ii) Institution's combination of a Product, Fix or Services Deliverable with a non-Microsoft product, data or business process or Institution's use of a non-Microsoft product, data or business process;
 - (iii) Organization's use of either Microsoft's trademarks or the use or redistribution of a Product, Fix, or Services Deliverable in violation of this agreement or any agreement incorporating its terms; or
 - (iv) Organization's use of a Product, Fix or Services Deliverable after Microsoft notifies Institution to discontinue that use due to a third party claim.

Institution will reimburse Microsoft for any costs or damages that result from any of the above actions.

c. **Institution's agreement to protect.** Institution will defend Microsoft against any claims made by an unaffiliated third party that:

- (i) any Customer Data or non-Microsoft software Microsoft hosts on Institution's behalf infringes the third party's patent, copyright, or trademark or makes unlawful use of its Trade Secret; or
- (ii) arises from a violation of the Acceptable Use Policy, which is described in the Product Use Rights.

Institution must pay the amount of any resulting adverse final judgment (or settlement to which Institution consents). This section provides Microsoft's exclusive remedy for these claims.

d. **Rights and remedies in case of possible infringement or misappropriation.**

(i) **Microsoft offerings.** If Microsoft reasonably believes that a Product, Fix, or Services Deliverable may infringe or misappropriate a third-party's intellectual property rights, Microsoft will seek to: (1) procure for Institution the right to continue to use the Product, Fix or Services Deliverable; or (2) modify or replace it with a functional equivalent to make it non-infringing and notify Institution to discontinue use of the prior version, which Institution must do immediately. If the foregoing options are not commercially reasonable for Microsoft, or if required by a valid judicial or government order, Microsoft may terminate Organization's license or access rights (or for certain Services Deliverables, Institution's ownership rights) in the Product, Fix, or Services Deliverable. In such a case, Microsoft will notify Institution and refund any amounts Institution has paid for those rights to the Product, Fix or Services Deliverable (or for Online Services, any amount Institution has paid in advance for unused Online Services).

(ii) **Customer Data or use of non-Microsoft software with Online Services.** If an unaffiliated third party asserts that Customer Data or non-Microsoft software or technology used by Institution with the Online Services violates their intellectual property rights, Microsoft may ask Institution to remove the allegedly infringing item. If Institution fails to do so within a reasonable period of time, Microsoft may suspend or terminate the Online Service to which the Customer Data or non-Microsoft software relates.

e. **Obligations of protected party.** Institution must notify Microsoft promptly in writing of a claim subject to the Subsection titled "Microsoft's agreement to protect" and Microsoft must notify Institution promptly in writing of a claim subject to the Subsection titled "Institution's agreement to protect." The party invoking its right to protection must (1) give the other party sole control over the defense or settlement; and (2) provide reasonable assistance in defending the claim. The party providing the protection will reimburse the other party for reasonable out of pocket expenses that it incurs in providing assistance.

16. **Limitation of liability.**

a. **Limitation on liability.** To the extent permitted by applicable law, the total liability of each party, including its Affiliates and its Contractors, for all claims arising under this agreement is limited to direct damages up to (1) for Services, the amount Institution was required to pay for the Services under the applicable Statement of Services, (2) for each Product other than Online Services, the amount Institution was required to pay for the Product under the applicable Enrollment, and (3) for Online Services, the amount Institution was required to pay for the Online Service during the 12 months before the cause of the action arose; provided, that in no event will a party's aggregate liability for any Online Service exceed the amount paid for that Online Service under the applicable Enrollment. In the case of Products or Services provided free of charge, or code that Institution is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages and capped at U.S. \$5,000. These limitations apply regardless of whether the asserted liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory. However, the limitations in this section will not apply to:

- (i) Microsoft's and Institution's obligations under the section titled "Defense of infringement, misappropriation, and third party claims";
 - (ii) liabilities arising out of any breach by either party of its obligations under the section entitled "Confidentiality," except that Microsoft's liability arising out of or in relation to Customer Data shall in all cases be limited as provided above for the applicable Online Service or Services; and
 - (iii) a violation by either party of the other party's intellectual property rights.
- b. **EXCLUSION OF CERTAIN DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES OR CONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF (1) ITS CONFIDENTIALITY OBLIGATIONS (EXCEPT TO THE EXTENT THAT SUCH VIOLATION RELATES TO CUSTOMER DATA), (2) THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR (3) OBLIGATIONS IN THE SECTION TITLED "DEFENSE OF INFRINGEMENT, MISAPPROPRIATION, AND THIRD PARTY CLAIMS."**
- c. **Affiliates and Contractors.** Neither Microsoft nor Institution shall bring any action against the other's Affiliates or Contractors in respect of any matter disclaimed on their behalf in this agreement. Each party will indemnify the other in the event of any breach of this provision.

17. Verifying compliance.

- a. **Right to verify compliance.** Institution must keep records relating to the Products it and its Affiliates use or distribute. Microsoft has the right to verify Institution's and its Affiliates' compliance with the License terms for the Products, at Microsoft's expense.
- b. **Verification process and limitations.** Microsoft will provide institution at least 30 days' notice of its intent to verify compliance. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Verification will take place during normal business hours and in a manner that does not interfere unreasonably with Institution's operations. Institution must promptly provide the independent auditor with any information it reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of licenses for Products Institution hosts, sublicenses, or distributes to third parties. As an alternative, Microsoft may require Institution to complete Microsoft's self-audit process relating to the Products Institution and any of its Affiliates use or distribute. Such information will be used solely for purposes of determining compliance.
- c. **Remedies for noncompliance.** If verification reveals any unlicensed use or distribution, Institution must within 30 days order sufficient licenses to cover that use or distribution. If unlicensed use is 5% or more, Institution must reimburse Microsoft for the costs Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the then current price list and Institution price level within 30 days. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not undertake another verification of the same Institution for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this agreement or to protect its intellectual property by any other means permitted by law.
- 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 Organization 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.

18. *Miscellaneous.*

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

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

Microsoft may provide information about Enrollment deadlines and Online Services by email to contacts provided by Institution under an Enrollment or through a website Microsoft identifies. Notice by email is given as of the transmission date.

- b. **No transfer of ownership.** Microsoft does not transfer any ownership rights in any licensed Product. Microsoft reserves all rights not specifically granted in this agreement. The Products are protected by copyright and other intellectual property rights laws and international treaties.
- c. **Severability.** If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the rest of the document will remain in effect and this agreement will be amended to give effect to the eliminated provision to the maximum extent possible.
- d. **Waiver.** A waiver of any breach of this agreement is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party.
- e. **Resellers and other third parties cannot bind Microsoft.** Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- f. **This agreement is not exclusive.** Institution is free to enter into agreements to license, use or promote non-Microsoft Products or services.

- g. Entire agreement.** The documents identified on the cover page of this agreement constitute the entire agreement concerning the subject matter, and supersede any prior or contemporaneous communications.
- h. Order of Precedence.** In the case of a conflict between any documents in this agreement that is not expressly resolved in the documents, their terms will control in the following order of descending priority: (1) this Campus and School Agreement and the accompanying signature form, (2) any Enrollment, (3) the Product List, (4) the Product Use Rights, (5) orders submitted under this agreement, and (6) any other documents in this agreement. Terms in an amendment control over the amended document and any prior amendments, concerning the same subject matter.
- i. Amending the agreement.** This agreement and any Enrollments under it may be amended only by a formal written agreement signed by both parties. The Product List and Product Use Rights (including any documented referenced therein) may be changed by Microsoft in accordance with the terms of this agreement.
- j. Assignment.** Either party may assign all its rights under this agreement to an Affiliate, but it must notify the other party in writing of the assignment. Any other assignment of rights under those agreements must be approved by the other party in writing. Any assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- k. Survival.** Provisions regarding ownership and license rights, fees, Product Use Rights, restrictions on use, evidence of perpetual Licenses, transfer of Licenses, warranties, defense of infringement, misappropriation and third party claims, Microsoft's and Institution's obligations to protect each other, limitations of liability, confidentiality, compliance verification, obligations on termination or expiration and the other provisions in this section entitled "Miscellaneous" will survive termination or expiration of this agreement or any Enrollment.
- l. Advisor fee.** Microsoft, or its Affiliates, sometimes pays fees to software advisors or other third parties authorized by Microsoft or one of its Affiliates. The fees are in exchange for their advisory services. The payment of fees depends upon several factors, including the type of agreement under which Institution orders Licenses, which Licenses are ordered, and whether Institution chooses to use an advisor. The fee amounts increase with the size of the orders placed under this agreement.
- m. Applicable law, venue, and jurisdiction.** This agreement is governed by the laws of the State of Washington, USA. Both parties agree that the federal courts have exclusive jurisdiction over disputes under this agreement and the resolution. Any legal actions relating to this agreement must be brought in a court of competent jurisdiction within federal courts located in the State of Washington, USA, and the parties agree that jurisdiction and venue in such courts is appropriate.
- n. U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Institution must comply with all applicable international and national laws, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end use and destination restrictions by U.S. and other governments related to Microsoft products, services, and technologies. For additional information related to Microsoft compliance with export rules, see <http://www.microsoft.com/exporting>. Institution will notify Microsoft at cmec@microsoft.com as to any regulatory or legal controls on the use, access or transfer of Institution's software or technology prior to such use, access or transfer to/by Microsoft. Institution will provide sufficient information to permit Microsoft to comply with applicable controls on Institution's software or technology.
- o. Compliance with Applicable Laws, Privacy and security.**
- (i) Microsoft and Institution will each comply with all applicable privacy and data protection laws and regulations (including applicable security breach notification law). However, Microsoft is not responsible for compliance with any laws applicable to Institution or Institution's industry that are not also generally applicable to information technology services providers. Institution consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this agreement.

- (ii) Institution may choose to provide personal information to Microsoft on behalf of third parties (including Institution's contacts, resellers, distributors, administrators, and employees) as part of this agreement. Institution will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
 - (iii) The personal information Institution provides in connection with this agreement will be processed according to the privacy statement available at <https://www.microsoft.com/licensing/servicecenter> (see footer), except that Product-specific privacy statements are in the Product Use Rights. Personal data collected through Products or Services may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities. By using the Products or Services, Institution consents to the foregoing. Microsoft abides by the EU Safe Harbor and the Swiss Safe Harbor frameworks as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of data from the European Union, the European Economic Area, and Switzerland.
 - (iv) For Online Services, additional privacy and security details are in the Product Use Rights.
- p. **Subcontractors.** Microsoft may use contractors to perform Services and support Online Services. Microsoft will be responsible for their performance subject to the terms of this agreement.
 - q. **Natural disaster.** In the event of a natural disaster, Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
 - r. **Section headings.** All section and subsection headings used in this agreement, as well as any Enrollments or Statement of Services, are for convenience only and shall not affect the interpretation of this agreement.