

Campus and School Agreement

Agreement number
(Microsoft affiliate to complete)

This Agreement is entered into between the following entities signing, as of the effective date identified below.

This agreement consists of (1) this cover page, (2) the contact information page(s), (3) the attached terms and conditions, (4) the Product List, (5) the product use rights applicable to products licensed under this agreement, and (6) any subscription enrollment entered into under this agreement.

Effective Date. If the first subscription enrollment entered into under this agreement is given a licensed period that is earlier than the date of this agreement is signed by us, the effective date this agreement will be that earlier date. Otherwise, this agreement will be effective on the date it is signed by us.

By signing below, the parties agree to be bound by the terms of this agreement, and you represent that the information you have provided on the cover and contact page(s) is accurate.

<i>Institution</i>	<i>Contracting Microsoft affiliate</i>
Name of Institution *	Microsoft Licensing, GP
Signature *	Signature
Printed name * Last First	Printed name
Printed title *	Printed title
Signature date *	Signature date (date Microsoft affiliate countersigns)
<i>* indicates required field</i>	Effective date (may be different than our signature date)

Institution: Please return 2 SIGNED ORIGINALS of this agreement to your reseller.

Reseller: Please return 2 SIGNED ORIGINALS of this agreement to your distributor.

Distributor: Please return 2 SIGNED ORIGINALS of this agreement to Microsoft

Contact information. Each party will notify the other in writing if any of the information in the following contact information page(s) change. The * indicates required fields. We may disclose contact information as necessary to administer this agreement.

Primary contact information: The Institution signing on the cover page must identify an individual from inside its institution to serve as the primary contact. This contact is also the default online administrator for this agreement and will receive all notices unless you provide us written notice of a change. The online administrator may appoint other administrators and grant others access to online information.

<i>Primary contact information</i>		
Name of Institution *		Contact Name *
Same Institution identified on Cover Page		Last Vaughan First Janice
Street Address *		Contact Email Address (required for online access) *
915 Volunteer Boulevard 2510 Dunford Hall		jgvaughan@tennessee.edu
City *	State/Province *	Phone *
Knoxville	TN	8659743053
Country *	Postal Code *	Fax
USA	37996	8659740296

Notices and online access contact information: **Complete this section only if you want to designate a notices and online contact different than the primary contact.** This contact will become the default online administrator for this agreement and receive all notices. This contact may appoint other administrators and grant others access to online information.

<i>Notices and online access contact</i>		
<input checked="" type="checkbox"/> Same as primary contact (if checked, please do not fill the data below)		
Name of Entity		Contact Name
		Last First
Street Address		Contact Email Address (required for online access)
City	State/Province	Phone
Country	Postal Code	Fax

General Terms and Conditions

1. Definitions.

In this agreement, the following definitions apply:

“fix(es)” means product fixes, modifications or enhancements that we either release generally (such as software service packs) or that we provide to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds).

“license” means any one of those offerings identified in the Product List (including standard licenses, and upgrades for desktop operating systems) that provides the right to run the version of the product for which it is ordered;

A **“licensed period”** means the period of time beginning on the effective date specified in your subscription enrollment and continuing for the period of time specified in your subscription enrollment (either 12 or 36 calendar months);

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

The **“software”** or **“products”** means the most current or any prior version of the Microsoft software you selected on your subscription enrollment. The software may be in any available language and either a Macintosh or Windows version;

“Software Assurance” means, for any underlying licensed software for which it is ordered, the right to upgrade to, and run in place of the underlying licensed software, the latest version of that product that we make available during the licensed period;

The **“subscription enrollment(s)”** means the order form that you complete and submit to your reseller for the license to run the software during the licensed period;

“you” means the eligible education institution identified on the subscription enrollment. If you are a school district, “you” also includes all participating schools in the same district;

“we” or **“us”** means the Microsoft entity that has entered into this agreement or a subscription enrollment;

Your **“users”** means you and your faculty, staff, and students whom you designate on the subscription enrollment to run the software. Your users must be Qualified Education Users as defined in Schedule A in order to be eligible for the Campus or School Agreement programs;

2. How the program works.

The Campus and School Agreement allows an eligible education institution to license one or more products on a subscription basis for its institution. To license software on a subscription basis means that the right to run the product is non-perpetual and continues only during the licensed period.

You can participate in this program by submitting a subscription enrollment. This program allows you to select between a one year licensed period or a three year licensed period. You will indicate your choice in the subscription enrollment.

One year licensed period: You must submit an order to indicate the software you choose to run. Thereafter, you may submit extension orders to continue your subscription. If an extension order is not received, your subscription enrollment will expire.

Three year licensed period: You must submit an order to indicate the software you choose to run. You must then submit anniversary orders on the first and second anniversaries of the effective date of your subscription enrollment.

3. *How to order software.*

- a. *Placing the initial order.*** You must submit an order for software within 30 days of the effective date of your subscription enrollment.
- b. *Adding new software not previously ordered.*** You may submit orders for software that were not part of the initial order. The order must be placed in the month in which those copies are first run. The licensed period for additional orders will be the same as the subscription enrollment licensed period.
- c. *Adding more copies of software previously ordered***
 - Software, other than servers, is licensed on an institution wide basis. You do not need to submit orders to increase the number of copies that you run. However, you must report increases at each anniversary of the .effective date of your subscription enrollment.
 - Server software is licensed based on the number of licenses that you require. At any time during the licensed period (including any extension), you may run additional copies of any previously ordered server software, provided you submit orders for such copies. The order must be placed in the month in which those copies are first run.
- d. *Placing subsequent annual orders.*** You must submit an order based on the following:
 - One year licensed period: You must submit an extension order to extend your subscription enrollment for another licensed period. Your order must be submitted on or before the expiration of your licensed period. You may change the software selection and quantity ordered at each extension order. You must meet the minimum requirements stated in the subscription enrollment for each extension order.
 - Three year licensed period: You must submit an anniversary order on or before each anniversary of the effective date of your three year licensed period. Each of your anniversary orders must at a minimum be for the same software selection and quantity of all software ordered during your first year of the licensed period. At the end of the three year licensed period, you may enter into a new subscription enrollment.

4. *Subscription price.*

One year licensed period: We will not increase the license prices we charge your distributor 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 (i) you complete and submit an extension order prior to the expiration of the subscription enrollment, and (ii) such order is confirmed for the same software in substantially the same quantities as ordered in the expiring licensed period.

Three year licensed period: If you choose this option and comply with the ordering requirements within the agreement, for any software ordered during the licensed period, the price we charge your distributor on each anniversary order will be the price for the software at the time that it is first ordered.

5. *How to confirm orders*

We will publish information about orders placed by you, including an electronic confirmation of each order, in a password-protected site on the World Wide Web at <https://licensing.microsoft.com> or a successor site that we identify. Upon our acceptance of this agreement and subscription enrollments entered into under this agreement, the contact identified for this purpose in the contact information page(s) will be provided access to this site.

6. Options upon completion of a licensed period

We will provide you with prior written notice of expiration of your subscription enrollment. Our notice will advise you of your option to: (i) extend your subscription enrollment under the one year licensed period, (ii) submit a new subscription enrollment under the three year licensed period, (iii) exercise the buy-out option, or (iv) allow the subscription enrollment to expire. We will not unreasonably reject any extension order or subscription enrollment. However, we may make a change to this program that will make it necessary for you to first enter into new agreements and subscription enrollments. Each licensed period will start the day following the expiration of the prior licensed period:

- **One year licensed period:** You may elect to extend your one year licensed period for 12 calendar months by submitting an extension order.
- **Three year licensed period:** You must complete a new subscription enrollment.
- **Buy-out option:** You may elect to obtain perpetual licenses for software licensed under your subscription enrollment. To do so, you must submit a buy-out order at the end of the licensed period, but not after its termination or expiration.

License confirmation: Your order confirmation for the buy-out and any documentation evidencing transfers of licenses, together with proof of payment, will be your evidence of a perpetual license to run the latest version then available (or any prior version) for the copies of software covered by the buy-out order.
- **Allow the subscription enrollment to expire:** If you allow your subscription enrollment to expire, you must delete all software as provided in Section 18.

Because all licenses acquired under this agreement are temporary, you 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).

7. License grant.

On the date of our letter to you confirming our acceptance of your subscription enrollment, you are temporarily licensed to have your users run the software as specifically permitted in the product use rights located at <http://www.microsoft.com/licensing/resources/downloads/default.mspx>. If you are unable to access the product use rights from the web location listed above, please let us know and we will provide you with a copy. The use rights applicable to a software version, in any licensed period, will be the use rights that were in effect for the same version when you first ordered that software.

Use of any fixes is defined by the product use rights for the affected software or, if the fix is not provided for specific software, any other use terms we provide. All fixes are licensed to you.

The right to run the software and fixes is limited as follows:

- We do not transfer any ownership rights in any software or fixes and we reserve all rights not expressly granted. Your right to have your users run the software and fixes is expressly limited to the rights described in this agreement.
- Neither you nor your users may separate the components of software 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.
- Neither you nor your users may rent, lease, commercially host or lend any copy of the software or fixes, except where we agree by separate agreement.
- Neither you nor your users may reverse engineer, decompile or disassemble the software or fixes, except to the extent expressly permitted by applicable law despite this limitation.

- Neither you nor your users may make copies of the software or fixes and distribute them on media to your student users.
- The components of the software may vary by platform. You may run only the components of the software that are included on the platform you choose to deploy.

The software and fixes licensed under this agreement are subject to U.S. export jurisdiction. You must comply with all applicable domestic and international export laws and regulations that apply to the software and fixes. Such laws include restrictions on destination, users and end use. For additional information, see <http://www.microsoft.com/exporting/>.

Neither you nor your users will be entitled to free telephone support for the software, except as we specify in writing in connection with Software Assurance Membership or other Software Assurance offerings.

8. Software Assurance Membership.

Throughout the term of your licensed period, you automatically qualify as a member of Microsoft's Software Assurance Membership program. Membership may entitle you to special benefits. These benefits may be subject to additional terms and conditions. For a description of these benefits, you should consult your reseller.

9. Distributing media

- a. To your faculty and staff.** You may acquire the quantity of media as necessary to distribute the software to your faculty and staff for use in accordance with your agreement. All media for a particular product must be acquired from a Microsoft-approved fulfillment source for that product. You may also copy volume licensing media acquired from a Microsoft-approved fulfillment source for distribution to your faculty and staff users only (other than for purposes of faculty and staff Work at Home rights). All copies must be true and complete copies (including copyright and trademark notices). Replication guidelines are posted at <http://selectug.mslicense.com/>. You 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 software. You may not disclose volume licensing keys to faculty and staff work-at-home or student option users or to any other unauthorized third party.
- b. To your faculty and staff Work at Home users and to your student FTE (full time equivalent) option users.** If you order faculty and staff Work at Home rights for selected software or select the Student Option in a subscription enrollment, access to media by your faculty and staff for Work at Home purposes and by your Student Option users must be restricted and regulated by you. All media for software distributed to your faculty and staff for Work at Home purposes and to your Student Option users must be acquired from a Microsoft approved fulfillment source, and such software may be distributed to such users only in the following ways:
 - (i) if you purchase individual student-media CD-ROM or disk sets (collectively, "student media") for a particular software, through distribution of one copy of such student media directly to each authorized Work at Home or Student Option user (student media may contain product activation features that limit the number of installations; your reseller can identify media and software that contains product activation features. You can get details on ordering and distributing student media, including a list of the software for which student media is currently available, on <http://www.microsoft.com/Education/?ID=StudentMedia>); or

- (ii) utilizing volume licensing media that you acquire pursuant to Section 3, via (a) controlled download from your secure network server(s) or other storage device(s), (b) manual installation by you at a central location that you control, or (c) a system of controlled short-term checkout of applicable volume licensing media solely for purposes of individual user installation, provided that this option (c) is available only for software for which a volume licensing key is not required.

c. Redistribution of Software Updates to Students.

- (i) **License Grant.** From time to time we may make available to the general public additional or replacement code of any portion of our licensed software products without a fee ("Software Updates"). We grant you a limited, non-exclusive, royalty-free, non-assignable, non-transferable, revocable license to distribute the Software Updates to your students in accordance with the terms of this Section 9(c). Your students must use the Software Updates solely for their personal benefit in accordance with the end-user license agreement with us ("EULA") included with each Software Update.
- (ii) **Redistribution of Software Updates.** You may redistribute Software Updates to your students (1) by electronic means provided that your method of electronic distribution is adequately licensed and incorporates access control and security measures designed to (a) prevent modification of the Software Updates and (b) prevent access by the general public or (2) through acquiring authorized copies on fixed media from a fulfillment source approved by us.
- (iii) **Limitations.** You 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, but you may recover any reasonable costs incurred in providing the updates to your students; (5) remove, modify, or interfere with the EULA or the EULA acceptance functionality included by us with any Software Update; or (6) alter the Software Updates in any way. We are not responsible for any cost related to the acquisition, distribution or recall of the Software Updates.
- (iv) **Tracking and Recall; Replacement Software Updates.** You must track the quantity and method of distribution of the Software Updates by means that will allow you to provide notice of a recall and offer replacements as provided in this subsection. You agree to stop redistributing Software Updates within 10 days of receipt of a notice of recall from us, and within 30 days of that notice you agree to (1) return to us or destroy all copies of Software Updates in your possession, and (2) notify your students of the recall by same or similar means in which they were notified of the availability of the Software Updates.

If we make available to you a replacement Software Update, you agree to make the replacement available to your students, within 10 days of receipt, in the same quantity and method of distribution as you made the original Software Update available. Your distribution of replacement Software Updates is subject to the same conditions and restrictions as Software Updates under this section.

- (v) **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 you redistribute to your students are provided "as-is" without any warranties. You acknowledge that the provisions of this paragraph with regard to the Software Updates are reasonable having regard to, among other things, the fact that they are complex computer software and their performance will vary depending upon hardware, platform and software interactions and configurations.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL OR INDIRECT DAMAGES THAT ARISE OUT OF OR ARE IN ANY WAY RELATED TO YOUR REDISTRIBUTION OF THE SOFTWARE UPDATES TO YOUR STUDENTS. FURTHERMORE, IN NO EVENT SHALL WE 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.

- (vi) **Limitation of Liability.** With respect to your redistribution of the Software Updates, the Limitation of Liability provisions in Section 15 of this agreement shall apply in those situations in which you or an enrolled affiliate have a right to claim damages or payment from us.
- (vii) **No Support.** Software Updates you redistribute to your students are provided without any support obligation by us, including any benefits accruing from Software Assurance.
- (viii) **Applicability.** The provisions of this Section 9(c) shall not apply to your distribution of fixes to students so long as: (i) those students are licensed under Student Option, and (ii) the fix provided to those students is for software licensed to them under Student Option. All other redistribution to your students of additional or replacement code is subject to the provisions of this Section 9(c).

10. *Work at Home rights*

If you have ordered Work at Home rights for a particular product, during the licensed period, your faculty and staff users who are licensed to use the particular product, have the right to run one copy of that product on a home PC that they own or lease (or, for Work at Home rights ordered for a client access license, to access the server product(s) from a home PC that they own or lease), for work-related purposes only; provided that in the case of Work at Home rights ordered for any product under a subscription enrollment, the total number of faculty and staff users may not exceed the total number of eligible PCs (for a School subscription enrollment) or full time equivalent (for a Campus subscription enrollment) included in that subscription enrollment.

11. *Transfers*

You may not transfer any licenses acquired under this agreement except by obtaining perpetual licenses through the buy-out option described in Section 6 and transferring them in accordance with the procedures described in this section.

- a. How to transfer perpetual licenses.** You may transfer perpetual licenses ordered under a subscription enrollment to another institution or unaffiliated third party in connection with a divestiture or privatization of an operating division, a merger, or a consolidation, as long as you provide us with prior written and signed notice, on a form that we provide, that includes: (i) the applicable subscription enrollment number; (ii) the quantity of licenses being transferred by product and version; (iii) the name, address and contact information of the transferee; and (iv) any other information that we may reasonably request.

For all other transfers of licenses, our written consent is required. We will not withhold our consent unreasonably. No license transfer will be valid unless you provide to the transferee, and the transferee accepts in writing, the applicable product use rights, use restrictions, limitations of liability, and the transfer restrictions in this section. Any transfer made in violation of the requirements or restrictions of this section will be void.

- b. When transfers of perpetual licenses are not permitted.** You may not transfer (i) licenses on a short-term basis (either to third parties or by reassignment to different users or devices internally), or (ii) upgrade licenses 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.

12. Confidentiality.

We may use any technical information we derive from providing services related to our software for problem resolution, troubleshooting, product functionality enhancements and fixes, for our knowledge base. We agree not to identify you or disclose any of your confidential information in any item in the knowledge base. We are not obligated to restrict the future work assignments of people who have had access to your confidential information. In addition, you, we and these people are free to use the information that these people remember related to information technology, including ideas, concepts, know-how or techniques, so long as confidential information of the other party is not disclosed in the course of such use.

To the extent permitted by applicable law, the terms and conditions of this agreement are confidential. Neither you nor we will disclose such terms and conditions, or the substance of any discussions that led to them, to any third party other than your or our affiliates or agents, or to your designated or prospective resellers who: (a) have a need to know such information in order to assist in carrying out this agreement; and (b) have been instructed by you or us that all such information is to be handled in strict confidence.

13. Warranties.

- a. Limited software warranty.** We warrant that each version of the software will perform substantially in accordance with our user documentation. This warranty is valid for a period of one year from the date you first run a copy of the version. To the maximum extent permitted by law, any warranties imposed by law concerning the software are limited to the same extent and the same one year period. This warranty does not apply to components of the software which you are permitted to redistribute under applicable product use rights, or if failure of the software has resulted from accident, abuse or misapplication. If you notify us within the warranty period that software does not meet this warranty, then we will, at our option, either (i) return the price paid for that software or (ii) repair or replace that software. To the maximum extent permitted by law, this is your exclusive remedy for any failure of any software to function as described in this subsection
- b. NO OTHER WARRANTIES.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM AND EXCLUDE ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, OTHER THAN THOSE IDENTIFIED EXPRESSLY IN YOUR AGREEMENT, INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SOFTWARE, RELATED MATERIALS AND SERVICES. WE WILL NOT BE LIABLE FOR ANY SERVICES OR PRODUCTS PROVIDED BY THIRD PARTY VENDORS, DEVELOPERS OR CONSULTANTS IDENTIFIED OR REFERRED TO YOU BY US UNLESS SUCH THIRD PARTY PRODUCTS OR SERVICES ARE PROVIDED UNDER WRITTEN AGREEMENT BETWEEN YOU AND US, AND THEN ONLY TO THE EXTENT EXPRESSLY PROVIDED IN SUCH AGREEMENT.

14. Defense of infringement and misappropriation claims.

We will defend you against any claims made by an unaffiliated third party that any software or fix infringes its patent, copyright or trademark or misappropriates its trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent).

You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance in defending the claim, and we will reimburse you for reasonable out of pocket expenses that you incur in providing that assistance. The terms "misappropriation" and "trade secret" are used as defined in the Uniform Trade Secrets Act.

Our obligations will not apply to the extent that the claim or adverse final judgment is based on (i) your running of the software or fix after we notify you to discontinue running due to such a claim; (ii) your combining the software or fix with a non-Microsoft product, data or business process; (iii) damages attributable to the value of the use of a non-Microsoft product, data or business process; (iv) your altering the software or fix; (v) your distribution of the software or fix to, or its use for the benefit of, any third party; (vi) your use of our trademark(s) without express written consent to do so; or (vii) for any trade secret claim, your acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than us or our affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. You will reimburse us for any costs or damages that result from these actions.

If we receive information concerning an infringement claim related to the software or a fix, we may, at our expense and without obligation to do so, either (i) procure for you the right to continue to run the allegedly infringing software or fix, or (ii) modify the software or fix or replace it with a functional equivalent, to make it non-infringing, in which case you will stop running the allegedly infringing software or fix immediately. If, as a result of an infringement claim, your use of the software or a fix is enjoined by a court of competent jurisdiction, we will, at our option, either procure the right to continue its use, replace it with a functional equivalent, modify it to make it non-infringing, or refund the amount paid and terminate the license for the infringing software or fix.

If any other type of third party claim is brought against you regarding our intellectual property, you must notify us promptly in writing. We may, at our option, choose to treat these claims as being covered by this section. This Section 14 provides your exclusive remedy for third party infringement and trade secret misappropriation claims.

15. Limitation of liability.

- a. Limitation on direct damages.** There may be situations in which you have a right to claim damages or payment from us. Except as otherwise specifically provided in this paragraph, whatever the legal basis for your claim, our liability will be limited to the maximum extent permitted by applicable law, to direct damages up to the amount you have paid for the software or services giving rise to the claims. In the case of free software, services provided to you free of charge, or code you are authorized to redistribute to third parties without separate payment to Microsoft, our total liability to you will not exceed U.S. \$5000 or its equivalent in local currency. The limitations contained in this paragraph will not apply with respect to the following in connection with the performance of your agreement:
- (i) Our obligations under Section 14 to defend third party claims of patent, copyright or trademark infringement or trade secret misappropriation, and to pay damages resulting from any final adjudication (or settlement to which we consent) of such claims;
 - (ii) Our liability for damages for gross negligence or willful misconduct, to the extent caused by us or our agent and awarded by a court of final adjudication; and
 - (iii) Our obligations under Section 12 (confidentiality).
- b. No liability for certain damages.** To the maximum extent permitted by applicable law, neither party nor any of its affiliates or suppliers will be liable for any indirect damages (including, without limitation, consequential, special or incidental damages, damages for loss of profits or revenues, business interruption or loss of business information) arising in connection with your agreement, software, fix or service, even if advised of the possibility of such damages or if such possibility was reasonably foreseeable. This exclusion of liability does not apply to either party's liability to the other for violation of its confidentiality obligation or of the other party's intellectual property rights.

- c. Application.** Except as specified expressly in this Section 15, the limitations on and exclusions of liability for damages in this agreement apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory.

16. Verifying compliance

You must keep records relating to the software that you and any entity participating under this agreement run. We have the right to verify compliance at our expense, during the licensed period and for a period of one year thereafter. To do so, we will engage an independent accountant from a nationally recognized public accounting firm, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 30 days notice, during normal business hours and in a manner that does not interfere unreasonably with your operations. As an alternative, we may require you to accurately complete our self-audit questionnaire relating to the software you and any entity participating under a license agreement use. If verification or self-audit reveals unlicensed use of the software, you must promptly order sufficient licenses to permit all software usage disclosed. If material unlicensed use is found (license shortage of 5% or more), you must reimburse us for the costs we have incurred in verification and acquire the necessary additional licenses as single academic retail licenses within 30 days. If we undertake such verification and do not find material unlicensed use of software, we will not undertake another verification for at least one year. We and our auditors will use the information obtained in compliance verification only to enforce our rights and to determine whether you are in compliance with the terms of the agreement. By invoking the rights and procedures described above, we do not waive our rights to enforce this agreement or to protect our intellectual property by any other means permitted by law. Additionally, you must use reasonable efforts to make your users aware of the terms and conditions upon which they are allowed to run the software. Accordingly, you must:

- a.** Notify all users in advance of running the software that:
- (i) their use of the software is subject to the terms of this agreement, including but not limited to limitations on liability, disclaimer of warranties and exclusion of remedies;
 - (ii) they are allowed to run the software only during the licensed period; and
 - (iii) if your agreement is terminated, or you do not submit a subscription enrollment or extension order prior to the expiration of the licensed period or purchase perpetual licenses for the software, then all software run under your agreement must be deleted when the licensed period expires or is otherwise earlier terminated, whichever is first; and,
- b.** 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://microsoft.com/licensing/>; and,
- c.** Notify us immediately if you are aware of any actual or potential violation of your agreement; and,
- d.** Provide all reasonable assistance and cooperation as requested by us to investigate and remedy any unauthorized use of the software by your users.

If you comply with this section, you will not be responsible for your student users' failure to comply with the terms of your agreement.

17. Applicable law, venue, and jurisdiction.

Your agreement will be governed by the laws of the state where you are organized. You represent and warrant that the terms and conditions of your agreement as written and executed, including but not limited to limitations on liability, disclaimer of warranties and exclusion of remedies, are enforceable as written under the laws of the state where you are organized. Both parties agree that the federal courts of your state have exclusive jurisdiction over disputes under your agreement and the resolution. Any legal actions relating to your agreement must be brought in a court of competent jurisdiction within federal courts located in the jurisdiction of the state where you are organized, and the parties agree that jurisdiction and venue in such courts is appropriate.

18. Term and termination.

- a. Term.** This agreement will remain in effect until terminated by either us or you, as allowed. These general terms and conditions apply to all subscription enrollments submitted by you. The terms of any subscription enrollment(s) will be for the licensed period as specified in such subscription enrollment(s).
- b. Termination of the agreement.** Either party may terminate this agreement for any reason upon 60 days written notice.

Such termination will merely terminate either party's ability to enter into new subscription enrollments under this agreement. Such termination will not affect any subscription enrollment not otherwise terminated, and any terms of this agreement applicable to any subscription enrollment not otherwise terminated will continue in effect with respect to that subscription enrollment.
- c. Termination of a subscription enrollment.** Either of us may terminate any subscription enrollment(s) if the other party is in material breach or default of any obligation, which breach or default is not cured within thirty (30) days notice of such breach. We may terminate your agreement and any subscription enrollment(s) immediately if you lose your educational accreditation by the applicable governmental regulatory agency.

Effect of termination and licensed period expiration. Users may only run the software and fixes according to the terms of your agreement. Your users are only licensed to run the software and fixes during the licensed period. If your agreement is terminated, or you do not submit an extension order or anniversary order prior to the expiration of the licensed period, or purchase perpetual licenses for the software, then all software and fixes run as a result of your agreement must be deleted at the time that the licensed period expires or is otherwise earlier terminated. Similarly, if you stop ordering any software or software quantities decrease upon an extension of a licensed period, you must delete that software prior to the beginning of the extended licensed period. You must make reasonable efforts to ensure that your faculty and staff users (i) delete and remove software and fixes copies *from* the temporary ram (RAM) and permanent memory (e.g., hard disk) of their home PCs, and (ii) disconnect access to any server software at the end of the licensed period.

19. Miscellaneous.

- a. Notices to us.** Notices, authorizations, and requests given or made in connection with this agreement must be sent by post, express courier, facsimile, or email to the addresses and numbers indicated. Notices will be deemed delivered on the date shown on the postal return receipt or on the courier, facsimile or email confirmation of delivery.

<i>Notices to Microsoft should be sent to:</i>	<i>Copies should be sent to:</i>
<p>Microsoft Licensing, GP Dept. 551, Volume Licensing 6100 Neil Road, Suite 210 Reno, Nevada USA 89511-1137</p>	<p>Microsoft Corporation Law and Corporate Affairs Volume Licensing Group One Microsoft Way Redmond, WA 98052 USA</p> <p>Via Facsimile:(425) 936-7329</p>

- b. Severability.** If a court holds any provision of your agreement to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend your agreement to give effect to the stricken clause to the maximum extent possible. However, your agreement will be voidable by us at our option if provisions of your agreement regarding warranty disclaimers, damages disclaimers, limitations of liability, compliance verification, or obligations on termination are found to be invalid or unenforceable.
- c. Waiver.** No waiver of any breach of your agreement shall be a waiver of any other breach, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.
- d. Force majeure.** To the extent that either party's performance is prevented or delayed, either totally or in part, for reasons beyond that party's control, then that party will not be liable, so long as it resumes performance as soon as practicable after the reason preventing or delaying performance no longer exists.
- e. Independent contractors.** Resellers and distributors are independent contractors who act in their own name and for their own account; they have no authority to bind or impose any obligation or liability upon us.
- f. Non-exclusivity.** This agreement is non-exclusive. Nothing contained in it requires you to license, use or promote Microsoft software or services exclusively. You may, if you choose, enter into agreements with other parties to license, use or promote non-Microsoft software or services.
- g. Entire agreement.** The documents identified on the cover page of this agreement constitute the entire agreement concerning the subject matter, and supersedes any prior or contemporaneous communications. In the case of a conflict between any of these documents that is not resolved expressly in the documents, their terms will control in the following order: (i) these terms and conditions and the accompanying cover and contact page(s); (ii) the Product List; (iii) the product use rights; and (v) all other subscription enrollments under this agreement. The terms of any purchase order or any general terms and conditions you or your affiliates maintain do not apply. This agreement (except the product use rights, the Product List and the terms of any credit extending under any subscription enrollment) can be changed only by an amendment signed by both parties.
- h. Assignment.** If you wish to assign or transfer your agreement or your rights or obligations, you must obtain our prior written approval. We may transfer your agreement or our rights and obligations to one of our affiliated companies.
- i. Survival.** Provisions regarding product use rights, restrictions on use, transfer of licenses, warranties, defense of infringement and misappropriation claims, limitations of liability, confidentiality, compliance verification and obligations on termination or expiration will survive termination or expiration of your agreement or any subscription.