



Commonwealth of Virginia
Virginia Information Technologies Agency

SOFTWARE

Optional Use Contract

Date: July 13, 2016

Contract #: VA-003964-SAS

Authorized User: State Agencies, Institutions, and other Public Bodies
as defined in the VPPA

Contractor: SAS Institute, Inc.
100 SAS Campus Drive
Cary, NC 27513-8617
Phone: 919-531-6213

FIN: 56-1133017

Contact: Jon Anne Howard
(919) 531-6213
JonAnne.Howard@sas.com

Delivery Terms: 10 Days ARO

Payment Terms: 30 Days after receipt of order/invoice, whichever later

Payment: Net 30 days

For Additional Information, Please Contact:

Technical Information:
Supply Chain Management
Virginia Information Technologies Agency

Doug Crenshaw
Phone: 804-416-6160
E-Mail: doug.crenshaw@vita.virginia.gov
Fax: 804-416-6361

NOTES: Individual Commonwealth of Virginia employees are not authorized to purchase equipment or services for their personal use from this Contract.

For updates, please visit our Website at <http://www.vita.virginia.gov/procurement/contracts.cfm>

**AMENDMENT NUMBER 3
TO
MASTER LICENSE AGREEMENT FOR INSTITUTE PROGRAM PRODUCTS ON MICROCOMPUTERS**

Customer name and address: Commonwealth of Virginia
11751 Meadowville Lane
Chester, VA 23836 ("Customer")

WHEREAS, SAS Institute Inc. ("SAS") and Northrop Grumman Information Technology ("Northrop Grumman") entered into the Master License Agreement for Institute Program Products on Microcomputers referenced above ("License Agreement") on June 29, 1987, governing the license of certain SAS® software products ("Software");

WHEREAS, The License Agreement was assigned to Customer on March 4, 2009; and

WHEREAS, Customer and SAS desire to modify the License Agreement in consideration of further benefits to each;

NOW THEREFORE, notwithstanding any terms in the License Agreement or Supplements thereto, SAS and Customer agree as follows:

1. The above recitals are incorporated into this Amendment. All initially capitalized terms not defined herein shall be as defined in the License Agreement.
2. Private Institutions of higher education chartered in Virginia and granted tax-exempt status under §501(c)(3) of the Internal Revenue Code ("Private Institutions") may license Software for installation on the Private Institution's hardware and for its exclusive use by signing a Supplement to the License Agreement and paying the applicable license fees for such Software. With respect to such Software, the Private Institution shall be deemed "Customer". The following is a list of the Private Institutions:

- Appalachian College of Pharmacy
- Appalachian School of Law
 - Averett University
 - Bluefield College
 - Bridgewater College
- Eastern Mennonite University
 - Emory & Henry College
 - Ferrum College
 - Hampden-Sydney College
 - Hampton University
 - Hollins University
- Jefferson College of Health Sciences
 - Liberty University
 - Lynchburg College
 - Mary Baldwin College

- Marymount University
- Randolph College
- Randolph-Macon College
- Roanoke College
- Shenandoah University
- Southern Virginia University
- Sweet Briar College
- University of Richmond
- Edward Via College of Osteopathic Medicine
 - Virginia Union University
 - Virginia Wesleyan College
 - Washington and Lee University
- George Washington University (affiliate member)

Except as herein modified, all terms and conditions of the License Agreement, Supplements and Amendments remain in full force and effect.

Accepted by:

SAS Institute Inc.

Customer: Commonwealth of Virginia

By: *Victoria P. Clayton*
 Au _____

By: *Debra Owen-Shaw*
 Authorized Signature _____



Victoria P. Clayton
 Senior Manager
 Contracts Administration
 SAS Institute Inc.

Debra Owen-Shaw
 Name (type or print) _____

 Title

Vista Sanchez
 Title _____

On: September 11, 2014
 Date _____

On: 9/10/14
 Date _____

Lg100.40VB038/04SEP14



SAS Institute Inc.

License Agreement No. 03964

LICENSE ASSIGNMENT AGREEMENT

Agreement between: SAS Institute Inc., SAS Campus Drive, Cary, North Carolina 27513 ("SAS"),

And: Northrop Grumman Information Technology, Inc, 11751 Meadowville Lane, Meadowville Technology Park, Chester, VA 23836 ("Assignor"),

And: Commonwealth of Virginia, c/o Virginia Information Technologies Agency, 11751 Meadowville Lane, Meadowville Technology Park, Chester, VA 23836 ("Assignee"),

WHEREAS, SAS and Assignee entered into the License Agreement referenced above ("License Agreement"), dated June 29, 1987, governing the use of SAS Software; and

WHEREAS, SAS, Assignor and Assignee entered into a letter agreement on October 6, 2006, to assign the License Agreement to Assignor for the benefit of Assignee, with rights to re-assign the License Agreement to Assignee upon request; and

WHEREAS, Assignor wishes to re-assign, Assignee wishes to accept, and SAS agrees to grant, such full assignment of the License Agreement under the terms of this License Assignment Agreement; and

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. **Assumption of Obligations by Assignee.** The License Agreement, including all supplements, amendments, and addenda thereto, is hereby assigned to Assignee. Upon assignment, Assignor is no longer authorized to use the Software referenced under the terms of the License Agreement.
2. **Liability for License Agreement Violations.** Assignor is liable for any violations of the License Agreement occurring prior to this assignment or during the current license period. Assignee is liable for any violations of the License Agreement occurring after the effective date of this assignment.
3. **Institute Trade Secrets.** Source code underlying the object code provided with the Software ("Source Code") is an Institute trade secret to which access is not authorized. Neither Assignee nor any other user may reverse assemble, reverse engineer, or decompile the Software or otherwise attempt to access the Source Code.
4. **Software Renewal.** The license is an annual license renewed at the mutual agreement of the parties. Renewal is accomplished by Assignee paying, and the Institute accepting, the license renewal fee. If the license is renewed, Assignee must timely pay renewal invoices and apply the product authorization code to keep the Software operational. The product authorization code is a program which, when applied to the Software, allows the Software to operate for the term of its license

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5. **General.** This License Assignment Agreement is the parties' complete and exclusive statement relating to its subject matter. Modifications must be in writing, signed by all parties, and specifically reference this License Assignment Agreement. To the extent of conflicts between this License Assignment Agreement and the License Agreement, this License Agreement controls.

Accepted by:

Assignor: Northrop Grumman Information Technology, Inc.

By TE Kolet
Authorized signature
Terrence E. Kolet
Name (type or print)
Contract Manager
Title
On 1-30-09
Date

Assignee: Commonwealth of Virginia

By [Signature]
Authorized signature
James T. Roberts
Name (type or print)
Director, Finance and Administration
Title
On 3/4/09
Date

SAS Institute Inc.

By [Signature]
Authorized signature

 Victoria P. Clayton
Senior Manager
Contracts Administration
SAS Institute Inc.

On January 28, 2009
Date JMJ/bj





Supplement Number _____ ("Supplement") *
to Master License Agreement ("MLA")

SAS Institute Inc. ("SAS")
World Headquarters
SAS Campus Drive • Cary, North Carolina 27513
Tel: (919) 677 8000 • Fax: (919) 677 4444
<http://www.sas.com>

Customer Name: Radford University ("Customer")	
Street Address: 501 Stockton Street	
City, County, State, Zip Code: Radford, Radford County, VA 24142	Country (the "Territory") USA
Taxpayer ID Number:	Currency Type:

					FOR SAS USE ONLY	
Software and Subcomponents ¹	Applicable Pricing Metric, Number of Authorized Units ²	Operating System ³	Authorized Hardware (CPU/Server Manufacturer, Model type/Serial No.) ³	**Initial Fees ⁴ (in above Currency Type)	License Beginning Date	Anniversary Date
Software: SAS EAS (T&R)	CPU Based (4)	SL64		\$0	01JUL	01JUL
Software: SAS EAS+ (T&R)	CPU Based (Included in EAS (T&R))	WNT		\$2,081.10	01JUL	01JUL
Software: SAS EAS (T&R)	PC Installs (50)	WNDW		\$6,826.05	01JUL	01JUL

¹ Pricing metrics, operating systems and/or Authorized Hardware for subcomponents which differ from that of the Software with which they are associated are listed in the column that corresponds to the applicable subcomponent. Unless otherwise noted, the subcomponents listed here are included in the Software license fee for the Software product with which they are licensed or provided. Accordingly, unless indicated in an applicable pricing metric, Customer may use subcomponents only through the Software with which they are licensed, and Customer may not use or deploy any individual subcomponent as a replacement for other SAS software.

² The pricing metric is used to derive license fees; for example, but without limitation, Capacity Based, Total Users, PC Use, etc. as described on page 2 of this Supplement. Certain pricing metrics contain additional terms that pertain to Customer's use of the Software. Prior to any license renewal period, SAS may propose pricing metric and license fee changes in the applicable renewal invoice sent to Customer or some other mutually agreed manner.

³ Customer must provide Operating System and Authorized Hardware information to SAS prior to shipment of Software.

⁴ Unless otherwise described in this Supplement, these are the first year license fees for the Software. Fees exclude taxes. Customer is responsible for taxes on its licensing of the Software.

* This Supplement supersedes and replaces Supplement Numbers 32 licensed by Radford University (SAS Internal Site ID #s 404161, 526724, 526725), under Institute Program Products Master License Agreement Number 02853 between SAS and the Commonwealth of Virginia and effects the transfer of the license of such products listed above from Master License Agreement Number 02853 to Master License Agreement Number 03964 between SAS and the Commonwealth of Virginia.

**Initial period fees for the Software have been paid. Payment of license fees for renewal periods must be current prior to SAS process of transfer.

This Supplement, any Attachments and the MLA (collectively, "Agreement"), govern Customer's license of the listed software ("Software") and any related user documentation provided by SAS.

1. **Authorized Use.** The Software shall only be accessed by (a) Customer's employees and on site contractors ("Users") while doing work in the Territory solely for Customer, and (b) on a limited basis by third parties as herein specified. The license is an annual license which shall commence as of the License Beginning Date set forth on page 1. The license is renewed at the mutual agreement of the parties. Renewal is accomplished by SAS sending an invoice for the applicable Software license renewal fees and Customer paying the invoice.

1.1 **Territory.** Customer may install and use the Software within the territory listed on this Supplement ("Territory"). Customer may use Software on a portable computer in countries outside the Territory for up to three (3) months of an annual license period.

1.2 **International Report Access.** Customer may allow Users and third parties limited access to Software applications to view reports showing results of Customer's analysis of Customer's data. Customer may allow this limited access via the Internet, Customer's intranet or terminal emulation sessions. Customer shall ensure such applications (a) reside on Authorized Hardware for which Customer has licensed the Software and (b) may be used by third parties solely to view reports. Subject to applicable export and import law restrictions, such limited access may occur from anywhere in the world.

1.3 **Additional Use.** Before Customer may use the Software other than as allowed above, the parties must sign appropriate paperwork and Customer shall pay any applicable additional fees. Such other uses may include, but shall not be limited to, the following: (a) installation or use outside the applicable Territory; (b) use for the benefit of a third party in exchange for compensation; (c) use in facilities management, application or data service provision, outsourcing, time-sharing, data or information technology management, or other similar arrangements; (d) use to process third party data; (e) allowing a third party (other than an authorized contractor under the Agreement) to edit, modify, or otherwise access underlying Software, or to perform free form programming with the Software; (f) allowing a third party to use the Software for its own business operations or administrative processes; or (g) sharing Software access with any third party.

2. **Pricing Metrics and General Terms.** The pricing metrics and general terms listed below apply to the Software and its subcomponents listed on page 1.

2.1 Pricing Metrics

- (a) **PC Installs** - the Software license fee is based on the total number of Customer's personal computers on which the Software will be installed.
- (b) **CPU Based** - The Software license fee is based on the total number of designated CPUs contained in the Authorized Hardware on which the Software is installed.

2.2 General Terms

(a) In order to be eligible for the fees identified on the first page of this Supplement, Customer hereby certifies:

(i) it is a post-secondary Degree-Granting Institution ("DGI");

----- OR -----

(ii) the following DGI maintains statutory or other legal authority over Customer's general budget and contracting rights:

(b) If the certification contained in Section 2.2(a)(ii) applies to Customer, the name and address of such DGI shall be entered above and Customer agrees that the Software may not be used by such DGI, nor shall such DGI benefit from Customer's use of the Software. Customer agrees to immediately notify SAS in writing of any change in the certification made herein. Upon receipt of such notification, SAS may increase the license fees to SAS' prevailing commercial levels for the remainder of the then current license period, and for any subsequent renewal periods, by signing appropriate paperwork with Customer which shall supersede this Supplement.

(c) Subject to the terms of Section 2.2(a), "Customer's employees", as used in the Agreement, shall also include Customer's faculty members and staff. Students registered with Customer to take classes on campus or via the internet shall hereinafter be referred to as "Students". Customer may distribute personal computer Software to its employees and Students using Customer's internal distribution process. Customer may recoup administrative costs for such Software, provided such costs do not exceed the actual costs associated with administering such distribution process as evidenced by Customer's records.

(d) The Software is licensed for Teaching and Research ("T&R") or Administrative ("Admin") purposes, as indicated on the first page of the Supplement. Software license fees are calculated on, and usage rights are limited to, such purposes as defined in this Section. Subject to the terms of the Agreement, the following restrictions shall apply to each such purpose:

(i) "T&R" purposes shall be limited to classroom instruction and coursework directly related to Customer's post-secondary degree requirements, including the formulation of theses and dissertations, and Customer's noncommercial research activities. Software licensed for T&R purposes may be used by Customer's employees and Students.

(ii) "Admin" purposes shall be limited to activities associated with Customer's operations as an academic institution. Software licensed for Admin purposes may only be used by Customer's employees.

- (e) Education Analytic Suite ("EAS") Software includes the following products, if available in production versions under Customer's operating system(s): Base SAS, Enterprise Guide, SAS/ASSIST, SAS Bridge for ESRI, SAS/EIS, SAS/OR, SAS/QC, SAS/AF, SAS/LAB, SAS/CONNECT, SAS/ETS, SAS/FSP, SAS/GRAPH, SAS/IML, SAS/INSIGHT, SAS/SECURE, SAS/SHARE, SAS/STAT, SAS OnlineTutor, SAS Integration Technologies, and all SAS/ACCESS products (except SAS/ACCESS Interface to BAAN, SAS/ACCESS Interface to R/3, SAS/ACCESS Interface to PeopleSoft®, SAS/ACCESS Interface to SAP BW and SAS/ACCESS Interface to Microsoft® SQL Server, each of which must be licensed individually). SAS may from time to time change the EAS product mix. If SAS adds a product after the EAS Software is delivered to Customer, SAS is not obligated to notify Customer of such addition and may not provide the additional product unless requested by Customer. All such additional products shall be governed by the terms of the MLA and any additional terms applicable to such additional products provided to Customer by SAS. If SAS removes any product licensed by Customer as part of the EAS, Customer will receive written notice at least thirty (30) days prior to the anniversary date. At renewal, the Product Authorization Code for the removed product will not be provided unless such product is licensed separately.
- (f) Some Software consists of subcomponents which may be used only in connection with a single Software configuration. When the Software requires installation of subcomponents on more than one hardware tier, the server-tier subcomponents may be installed only on the Authorized Hardware listed on page 1 of this Supplement. If authorized by SAS, however, some server-tier subcomponents also may be installed on separate hardware. Where the license fee is based on hardware capacity, then the separate hardware must have the same or lower classification as the Authorized Hardware. Software or subcomponents licensed to SAS by third parties may only be installed once.
- (g) When licensed alone or as a subcomponent, SAS AppDev Studio software may be used for development purposes only.

3. Product Authorization Code. Customer may allow Users to access only Software licensed to Customer for which Customer receives a Product Authorization Code. Customer shall not allow Users to install or attempt to use other products contained on media received from SAS. The "Product Authorization Code" is a component of the Software that enables the Software to operate for the applicable license period. At each new license period, or if required as a result of changes in Authorized Hardware or Software, Customer must apply a new Product Authorization Code to keep the Software operating. SAS is not required to provide the Product Authorization Code if Customer is in breach of the Agreement or if all undisputed amounts due under the Agreement are not paid. SAS is not liable for damages caused by the resulting Software interruption. Customer may allow only Users to access the Product Authorization Code. Customer acknowledges and agrees that the Product Authorization Code is SAS' confidential and proprietary information.

4. Source Code; Copying. Source code from which the Software object code is derived ("Source Code") is not being provided and is a trade secret of SAS and SAS' licensors to which access is not authorized. Neither Customer nor any other User shall reverse engineer, reverse assemble or decompile the Software or in any way attempt to recreate the Source Code, except and only to the extent applicable laws specifically prohibit such restriction. Customer may copy the Software for (a) disaster recovery and backup purposes, and (b) installation of personal computer Software authorized hereunder. Copyright and other proprietary rights notices in the Software shall not be deleted or modified.

5. Payment.

5.1 License Fee Calculations; Upgrades. Customer agrees to (a) keep records of where the Software is being used and the extent of usage according to the applicable pricing metric, and (b) provide a copy of such records to SAS upon reasonable request. Customer may call or write SAS to change operating systems, Authorized Hardware or any factor affecting the applicable pricing metric. These changes may result in additional license fees which are effective and will be invoiced as of the time of the change.

5.2 Third Party Payments. Customer may, by written notice to SAS, designate a third party to pay license fees on Customer's behalf. Customer shall be responsible for any related charges assessed by such third party. When a third party is designated by Customer to pay fees under the Agreement, SAS will send its standard notices regarding fees only to such third party, and all payments due under the Agreement will remain Customer's ultimate responsibility.

6. Third Party Disclaimers. Sun Microsystems, Inc., Microsoft Corporation, and certain other vendors (collectively, "SAS' Licensors") license components to SAS which are contained in certain Software. SAS' Licensors require the following additional terms be included herein:

6.1 SAS' LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. SAS' LICENSORS PROVIDE THEIR SOFTWARE "AS IS."

6.2 SAS' LICENSORS ARE NOT LIABLE FOR DIRECT, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR RELIANCE DAMAGES (ARISING IN TORT, CONTRACT OR OTHERWISE), EVEN IF THEY HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

6.3 NOTHING IN THIS SECTION NEGATES SAS' EXPRESS WARRANTIES OR LIABILITIES UNDER THE AGREEMENT.

7. Additional Warranty Disclaimer. The following warranty disclaimer shall be in addition to those set forth in the MLA: **SAS AND ITS LICENSORS DO NOT WARRANT OR REPRESENT THAT THE SOFTWARE WILL RESULT IN COMPLIANCE, FULFILLMENT OR CONFORMITY WITH THE LAWS, RULES, REGULATIONS, REQUIREMENTS OR GUIDELINES OF ANY GOVERNMENTAL AGENCY.**

8. Export and Import Restrictions. SAS hereby notifies Customer that United States export laws and regulations apply to the Software. Both parties agree to comply with these and other applicable export and import laws and regulations. The parties expressly agree to exclude from the Agreement the United Nations Convention on Contracts for the International Sale of Goods.

9. Audit. Upon fifteen (15) business days' notice to Customer, SAS will have the right to conduct an on-site audit during Customer's normal business hours to verify compliance with the terms and conditions of the Agreement. Customer shall cooperate with SAS by: (a) making applicable records available; (b) providing copies of the records requested; and (c) directing all agents to cooperate. If the audit reveals that Customer owes additional license fees, Customer shall pay the amounts owed and SAS' reasonable expenses in conducting the audit.

10. Complete Agreement; Modifications. This Supplement constitutes a separate agreement between Customer and SAS incorporating the terms of the MLA. The Agreement and invoices arising under it are the parties' complete and exclusive statement relating to their subject matter. Modifications must be in writing, signed by both parties, and specifically reference the Agreement. Obligations in the Agreement that by their nature are continuing survive termination or expiration of the Agreement. Customer agrees to inform all parties authorized to use the Software of the relevant terms of the Agreement and any related user documentation, and be responsible for their adherence to such terms. Additional or different terms on current or future Customer or third party purchasing documents are expressly objected to and rejected. With respect to the Software, this Supplement adds to the Agreement, and supersedes and replaces any conflicting or inconsistent terms in the MLA.

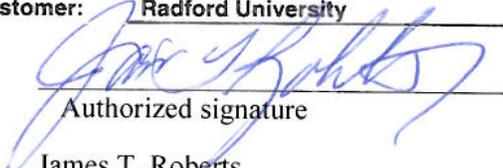
The individuals signing below represent they have authority to bind the named parties to this Supplement.

Accepted by:

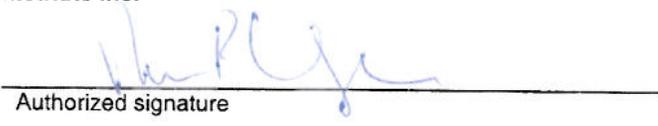
Customer: Radford University

SAS Institute Inc.

By



By:



Authorized signature

Authorized signature

James T. Roberts

Name (type or print)

 Victoria P. Clayton
Senior Manager
Contracts Administration
SAS Institute Inc.

Director, Finance and Administration

Title

On

3/4/09

Date

On

January 28, 2009

Date

JMJ/bj



Master License Agreement Number 02853

Supplement Number _____ ("Supplement") *
to Master License Agreement ("MLA")

SAS Institute Inc. ("SAS")
World Headquarters
SAS Campus Drive • Cary, North Carolina 27513
Tel: (919) 677 8000 • Fax: (919) 677 4444
<http://www.sas.com>

Customer Name: Virginia Department of Transportation ("Customer")	
Street Address: 1401 East Broad Street	
City, County, State, Zip Code: Richmond, VA 23219	Country (the "Territory") USA
Taxpayer ID Number:	Currency Type:

					FOR SAS USE ONLY	
Software and Subcomponents ¹	Applicable Pricing Metric, Number of Authorized Units ²	Operating System ³	Authorized Hardware (CPU/Server Manufacturer, Model type/Serial No.) ³	Initial Fees ⁴ (in above Currency Type)	License Beginning Date	Anniversary Date
Software: Base SAS	Capacity Based	WNT		\$0	01FEB	01FEB
Software: SAS/ACCESS INTERFACE to Oracle	Capacity Based	WNT		\$0	01FEB	01FEB

- ¹ Pricing metrics, operating systems and/or Authorized Hardware for subcomponents which differ from that of the Software with which they are associated are listed in the column that corresponds to the applicable subcomponent. Unless otherwise noted, the subcomponents listed here are included in the Software license fee for the Software product with which they are licensed or provided. Accordingly, unless indicated in an applicable pricing metric, Customer may use subcomponents only through the Software with which they are licensed, and Customer may not use or deploy any individual subcomponent as a replacement for other SAS software.
- ² The pricing metric is used to derive license fees; for example, but without limitation, Capacity Based, Total Users, PC Use, etc. as described on page 2 of this Supplement. Certain pricing metrics contain additional terms that pertain to Customer's use of the Software. Prior to any license renewal period, SAS may propose pricing metric and license fee changes in the applicable renewal invoice sent to Customer or some other mutually agreed manner.
- ³ Customer must provide Operating System and Authorized Hardware information to SAS prior to shipment of Software.
- ⁴ Unless otherwise described in this Supplement, these are the first year license fees for the Software. Fees exclude taxes. Customer is responsible for taxes on its licensing of the Software.

*This Supplement supersedes and replaces Supplement Numbers 74 and 84 licensed by VA Department of Transportation (SAS Internal Site ID # 429436), under Institute Program Products Master License Agreement Number 03964 between SAS and the Commonwealth of Virginia and effects the transfer of the license of such products listed above from Institute Program Products Master License Agreement Number 03964 to Master License Agreement Number 02853 between SAS and the Commonwealth of Virginia.

This Supplement, any Attachments and the MLA (collectively, "Agreement"), govern Customer's license of the listed software ("Software") and any related user documentation provided by SAS.

1. **Authorized Use.** The Software shall only be accessed by (a) Customer's employees and on site contractors ("Users") while doing work in the Territory solely for Customer, and (b) on a limited basis by third parties as herein specified. The license is an annual license which shall commence as of the License Beginning Date set forth on page 1. The license is renewed at the mutual agreement of the parties. Renewal is accomplished by SAS sending an invoice for the applicable Software license renewal fees and Customer paying the invoice.

1.1 **Territory.** Customer may install and use the Software within the territory listed on this Supplement ("Territory"). Customer may use Software on a portable computer in countries outside the Territory for up to three (3) months of an annual license period.

1.2 **International Report Access.** Customer may allow Users and third parties limited access to Software applications to view reports showing results of Customer's analysis of Customer's data. Customer may allow this limited access via the Internet, Customer's intranet or terminal emulation sessions. Customer shall ensure such applications (a) reside on Authorized Hardware for which Customer has licensed the Software and (b) may be used by third parties solely to view reports. Subject to applicable export and import law restrictions, such limited access may occur from anywhere in the world.

1.3 **Additional Use.** Before Customer may use the Software other than as allowed above, the parties must sign appropriate paperwork and Customer shall pay any applicable additional fees. Such other uses may include, but shall not be limited to, the following: (a) installation or use outside the applicable Territory; (b) use for the benefit of a third party in exchange for compensation; (c) use in facilities management, application or data service provision, outsourcing, time-sharing, data or information technology management, or other similar arrangements; (d) use to process third party data; (e) allowing a third party (other than an authorized contractor under the Agreement) to edit, modify, or otherwise access underlying Software, or to perform free form programming with the Software; (f) allowing a third party to use the Software for its own business operations or administrative processes; or (g) sharing Software access with any third party.

2. **Pricing Metrics and General Terms.** The pricing metrics and general terms listed below apply to the Software and its subcomponents listed on page 1.

2.1 **Pricing Metrics**

(a) **Capacity Based** - The Software license fee is based on the total processing power of the Authorized Hardware on which the Software is installed. With respect to server hardware, processing power includes each processor on each chip. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second ("MIPS").

3. **Subcomponent Installations.** Some Software consists of subcomponents which may be used only in connection with a single Software configuration. When the Software requires installation of subcomponents on more than one hardware tier, the server-tier subcomponents may be installed only on the Authorized Hardware listed on page 1 of this Supplement. If authorized by SAS, however, some server-tier subcomponents also may be installed on separate hardware. Where the license fee is based on hardware capacity, then the separate hardware must have the same or lower classification as the Authorized Hardware. Software or subcomponents licensed to SAS by third parties may only be installed once

4. **Product Authorization Code.** Customer may allow Users to access only Software licensed to Customer for which Customer receives a Product Authorization Code. Customer shall not allow Users to install or attempt to use other products contained on media received from SAS. The "Product Authorization Code" is a component of the Software that enables the Software to operate for the applicable license period. At each new license period, or if required as a result of changes in Authorized Hardware or Software, Customer must apply a new Product Authorization Code to keep the Software operating. SAS is not required to provide the Product Authorization Code if Customer is in breach of the Agreement or if all undisputed amounts due under the Agreement are not paid. SAS is not liable for damages caused by the resulting Software interruption. Customer may allow only Users to access the Product Authorization Code. Customer acknowledges and agrees that the Product Authorization Code is SAS' confidential and proprietary information.

5. **Source Code; Copying.** Source code from which the Software object code is derived ("Source Code") is not being provided and is a trade secret of SAS and SAS' licensors to which access is not authorized. Neither Customer nor any other User shall reverse engineer, reverse assemble or decompile the Software or in any way attempt to recreate the Source Code, except and only to the extent applicable laws specifically prohibit such restriction. Customer may copy the Software for (a) disaster recovery and backup purposes, and (b) installation of personal computer Software authorized hereunder. Copyright and other proprietary rights notices in the Software shall not be deleted or modified.

6. **Payment.**

6.1 **License Fee Calculations; Upgrades.** Customer agrees to (a) keep records of where the Software is being used and the extent of usage according to the applicable pricing metric, and (b) provide a copy of such records to SAS upon reasonable request. Customer may call or write SAS to change operating systems, Authorized Hardware or any factor affecting the applicable pricing metric. These changes may result in additional license fees which are effective and will be invoiced as of the time of the change.

6.2 **Third Party Payments.** Customer may, by written notice to SAS, designate a third party to pay license fees on Customer's behalf. Customer shall be responsible for any related charges assessed by such third party. When a third party is designated by Customer to pay fees under the Agreement, SAS will send its standard notices regarding fees only to such third party, and all payments due under the Agreement will remain Customer's ultimate responsibility.

7. **Third Party Disclaimers.** Sun Microsystems, Inc., Microsoft Corporation, and certain other vendors (collectively, "SAS' Licensors") license components to SAS which are contained in certain Software. SAS' Licensors require the following additional terms be included herein:

7.1 SAS' LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. SAS' LICENSORS PROVIDE THEIR SOFTWARE "AS IS."

7.2 SAS' LICENSORS ARE NOT LIABLE FOR DIRECT, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR RELIANCE DAMAGES (ARISING IN TORT, CONTRACT OR OTHERWISE), EVEN IF THEY HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

7.3 NOTHING IN THIS SECTION NEGATES SAS' EXPRESS WARRANTIES OR LIABILITIES UNDER THE AGREEMENT.

8. **Additional Warranty Disclaimer.** The following warranty disclaimer shall be in addition to those set forth in the MLA: SAS AND ITS LICENSORS DO NOT WARRANT OR REPRESENT THAT THE SOFTWARE WILL RESULT IN COMPLIANCE, FULFILLMENT OR CONFORMITY WITH THE LAWS, RULES, REGULATIONS, REQUIREMENTS OR GUIDELINES OF ANY GOVERNMENTAL AGENCY.

9. **Export and Import Restrictions.** SAS hereby notifies Customer that United States export laws and regulations apply to the Software. Both parties agree to comply with these and other applicable export and import laws and regulations. The parties expressly agree to exclude from the Agreement the United Nations Convention on Contracts for the International Sale of Goods.

10. **Audit.** Upon fifteen (15) business days' notice to Customer, SAS will have the right to conduct an on-site audit during Customer's normal business hours to verify compliance with the terms and conditions of the Agreement. Customer shall cooperate with SAS by: (a) making applicable records available; (b) providing copies of the records requested; and (c) directing all agents to cooperate. If the audit reveals that Customer owes additional license fees, Customer shall pay the amounts owed and SAS' reasonable expenses in conducting the audit.

11. **Complete Agreement; Modifications.** This Supplement constitutes a separate agreement between Customer and SAS incorporating the terms of the MLA. The Agreement and invoices arising under it are the parties' complete and exclusive statement relating to their subject matter. Modifications must be in writing, signed by both parties, and specifically reference the Agreement. Obligations in the Agreement that by their nature are continuing survive termination or expiration of the Agreement. Customer agrees to inform all parties authorized to use the Software of the relevant terms of the Agreement and any related user documentation, and be responsible for their adherence to such terms. Additional or different terms on current or future Customer or third party purchasing documents are expressly objected to and rejected. With respect to the Software, this Supplement adds to the Agreement, and supersedes and replaces any conflicting or inconsistent terms in the MLA.

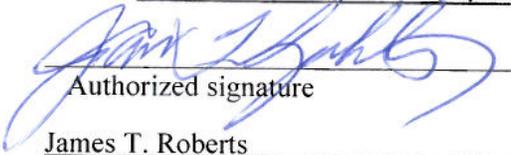
The individuals signing below represent they have authority to bind the named parties to this Supplement.

Accepted by:

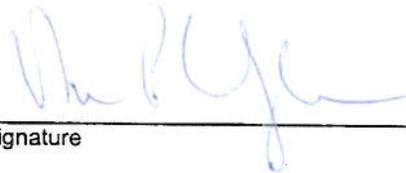
Customer: Virginia Department of Transportation

SAS Institute Inc.

By


Authorized signature

By:


Authorized signature

James T. Roberts
Name (type or print)

Name (type or print)

Director, Finance and Administration
Title

 Victoria P. Clayton
Senior Manager
Contracts Administration
SAS Institute Inc.

On 3/4/09
Date

On January 28, 2009
Date

JMJ/bj

lg01.0002/01MAY07
100.80 VK112/12DEC08

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Supplement Number _____ ("Supplement") *
to Master License Agreement ("MLA")

SAS Institute Inc. ("SAS")
World Headquarters
SAS Campus Drive • Cary, North Carolina 27513
Tel: (919) 677 8000 • Fax: (919) 677 4444
<http://www.sas.com>

Customer Name: Radford University ("Customer")	
Street Address: 501 Stockton Street	
City, County, State, Zip Code: Radford, Radford County, VA 24142	Country (the "Territory") USA
Taxpayer ID Number:	Currency Type:

					FOR SAS USE ONLY	
Software and Subcomponents ¹	Applicable Pricing Metric, Number of Authorized Units ²	Operating System ³	Authorized Hardware (CPU/Server Manufacturer, Model type/Serial No.) ³	Initial Fees ⁴ (in above Currency Type)	License Beginning Date	Anniversary Date
Software: JMP Software (Academic Annual License) *	Academic Campus-Wide	WNDW		\$0	01JUL	01JUL
Software: JMP Software (Academic Annual License) *	Academic Campus-Wide	MAC		\$0	01JUL	01JUL

¹ Pricing metrics, operating systems and/or Authorized Hardware for subcomponents which differ from that of the Software with which they are associated are listed in the column that corresponds to the applicable subcomponent. Unless otherwise noted, the subcomponents listed here are included in the Software license fee for the Software product with which they are licensed or provided. Accordingly, unless indicated in an applicable pricing metric, Customer may use subcomponents only through the Software with which they are licensed, and Customer may not use or deploy any individual subcomponent as a replacement for other SAS software.

² The pricing metric is used to derive license fees; for example, but without limitation, Capacity Based, Total Users, PC Use, etc. as described on page 2 of this Supplement. Certain pricing metrics contain additional terms that pertain to Customer's use of the Software. Prior to any license renewal period, SAS may propose pricing metric and license fee changes in the applicable renewal invoice sent to Customer or some other mutually agreed manner.

³ Customer must provide Operating System and Authorized Hardware information to SAS prior to shipment of Software.

⁴ Unless otherwise described in this Supplement, these are the first year license fees for the Software. Fees exclude taxes. Customer is responsible for taxes on its licensing of the Software.

* This Supplement supersedes and replaces Supplement Numbers 33 and 34 licensed by Radford University (SAS Internal Site ID # 526795 and 528212) under Institute Program Products Master License Agreement Number 02853 between SAS and the Commonwealth of Virginia and effects the transfer of the license of such products listed above from Master License Agreement Number 02853 to Master License Agreement Number 03964 between SAS and the Commonwealth of Virginia. Each license listed above has a five (5) year license term which shall expire on June 30, 2010.

1. **License of Software.** This Supplement, any Attachments and the MLA (collectively, "Agreement"), govern Customer's license of the listed software ("Software") and any related user-documentation provided by SAS. Customer acknowledges and accepts the JMP Software Attachment attached as Attachment A.

1.1 **Authorized Use.** The Software shall be accessed only by (a) Customer's employees and on site contractors ("Users") while doing work in the Territory solely for Customer, and (b) on a limited basis by third parties as herein specified. The license is an annual license which shall commence as of the License Beginning Date set forth on page 1. The license is renewed at the mutual agreement of the parties. Renewal is accomplished by SAS sending an invoice for the applicable Software license renewal fees and Customer paying the invoice.

1.2 **Territory; Report Access.** Customer may install and use the Software (a) within the Territory listed on page 1 of this Supplement; (b) on a portable computer in countries outside the Territory for up to three (3) months of an annual license period; and (c) in a manner allowing any party in or outside the Territory limited access to Software applications to view reports showing results of Customer's analysis of Customer's data ("Reports"). Customer may allow this limited Report viewing via the internet, Customer's intranet or terminal emulation sessions.

1.3 **Authorized Hardware.** Customer shall install the Software only on hardware authorized under the Agreement ("Authorized Hardware"). If the Software is licensed for use on mainframe or server hardware, Authorized Hardware is hardware that is located on the premises of Customer that Customer identifies to SAS by type and CPU numbers. If the Software is licensed for use on personal computers, Authorized Hardware is hardware owned or leased by Customer or its employees.

1.4 **Use of SAS AppDev Studio Software.** When licensed alone or as a Software subcomponent, SAS AppDev Studio software may be used for development purposes only.

1.5 **Other Uses of the Software.** Any uses of the Software other than as specifically allowed in the MLA and this Supplement shall be set forth in a written amendment containing terms and fees in consideration of such additional use. Examples of other uses include, but are not limited to, the following: (a) installation or use outside the Territory; (b) use for the benefit of a third party in exchange for compensation; (c) use in application or data service provision, outsourcing, time-sharing, data or information technology management, or other similar arrangements; (d) use to process third party data; (e) allowing any party other than Users to use, edit, modify, or otherwise access underlying Software, or to perform free form programming with the Software.

2. **Pricing Metrics.** The pricing metrics described herein apply to the Software and any Software subcomponents listed on page 1. For the avoidance of doubt, only those pricing metrics listed on page 1 apply to the Software and Software subcomponents licensed hereunder.

(a) **Academic Campus-Wide** – The Software may be used solely for academic purposes by Customer in accordance with the terms of Attachment A hereto.

3. **Subcomponent Installations.** Some Software consists of subcomponents which may be used only in connection with a single Software configuration. When the Software requires installation of subcomponents on more than one hardware tier, the server-tier subcomponents may be installed only on the Authorized Hardware listed on page 1 of this Supplement. If authorized by SAS, however, some server-tier subcomponents also may be installed on separate hardware. Where the license fee is based on hardware capacity, then the separate hardware must have the same or lower classification as the Authorized Hardware. Software or subcomponents licensed to SAS by third parties may only be installed once.
4. **Product Authorization Code.** Customer may allow Users to access only Software licensed to Customer for which Customer receives a Product Authorization Code. Customer shall not allow Users to install or attempt to use other products contained on media received from SAS. The "Product Authorization Code" is a component of the Software that enables the Software to operate for the applicable license period. At each new license period, or if required as a result of changes in Authorized Hardware or Software, Customer must apply a new Product Authorization Code to keep the Software operating. SAS is not required to provide the Product Authorization Code if Customer is in breach of the Agreement or if all undisputed amounts due under the Agreement are not paid. SAS is not liable for damages caused by the resulting Software interruption. Customer may allow only Users to access the Product Authorization Code. Customer acknowledges and agrees that the Product Authorization Code is SAS' confidential and proprietary information.
5. **Source Code; Copying.** Source code from which the Software object code is derived ("Source Code") is not being provided and is a trade secret of SAS and SAS' licensors to which access is not authorized. Neither Customer nor any other User shall reverse engineer, reverse assemble or decompile the Software or in any way attempt to recreate the Source Code, except and only to the extent applicable laws specifically prohibit such restriction. Customer may copy the Software for (a) disaster recovery and backup purposes, and (b) installation of personal computer Software authorized hereunder. Copyright and other proprietary rights notices in the Software shall not be deleted or modified.
6. **Payment.**

6.1 **License Fee Calculations; Upgrades.** Customer agrees to (a) keep records of where the Software is being used and the extent of usage of the Software relative to the scope of the Software license, and (b) provide a copy of such records to SAS upon reasonable request. Customer may call or write SAS to change operating systems, Authorized Hardware or any factor affecting the applicable pricing metric or any additional use of the Software. These changes may result in additional license fees which are effective and will be invoiced as of the time of the change.

6.2 **Third Party Payments.** Customer may, by written notice to SAS, designate a third party to pay license fees on Customer's behalf. Customer shall be responsible for any related charges assessed by such third party. When a third party is designated by Customer to pay fees under the Agreement, SAS will send its standard notices regarding fees only to such third party, and all payments due under the Agreement will remain Customer's ultimate responsibility.

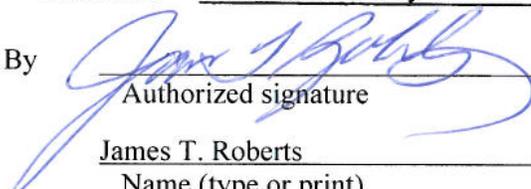
7. **Third Party Disclaimers.** Sun Microsystems, Inc., Microsoft Corporation, and certain other vendors (collectively, "SAS' Licensors") license components to SAS which are contained in certain Software. SAS' Licensors require the following additional terms be included herein:
- 7.1 **SAS' LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. SAS' LICENSORS PROVIDE THEIR SOFTWARE "AS IS."**
- 7.2 **SAS' LICENSORS ARE NOT LIABLE FOR DIRECT, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR RELIANCE DAMAGES (ARISING IN TORT, CONTRACT OR OTHERWISE), EVEN IF THEY HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.**
- 7.3 **NOTHING IN THIS SECTION NEGATES SAS' EXPRESS WARRANTIES OR LIABILITIES UNDER THE AGREEMENT.**
8. **Additional Warranty Disclaimer.** The following warranty disclaimer shall be in addition to those set forth in the MLA: SAS AND ITS LICENSORS DO NOT WARRANT OR REPRESENT THAT THE SOFTWARE WILL RESULT IN COMPLIANCE, FULFILLMENT OR CONFORMITY WITH THE LAWS, RULES, REGULATIONS, REQUIREMENTS OR GUIDELINES OF ANY GOVERNMENTAL AGENCY.
9. **Export and Import Restrictions.** SAS hereby notifies Customer that United States export laws and regulations apply to the Software. Both parties agree to comply with these and other applicable export and import laws and regulations. The parties expressly agree to exclude from the Agreement the United Nations Convention on Contracts for the International Sale of Goods.
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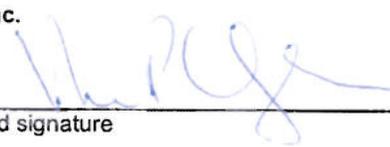
The individuals signing below represent they have authority to bind the named parties to this Supplement.

Accepted by:

Customer: Radford University

SAS Institute Inc.

By 
Authorized signature

By: 
Authorized signature

James T. Roberts
Name (type or print)

 Victoria P. Clayton
Senior Manager
Contracts Administration
SAS Institute Inc.

Director, Finance and Administration
Title

On January 28, 2009
Date JMJ/bj

On 3/4/09
Date



ATTACHMENT A**JMP® SOFTWARE ATTACHMENT*
(Academic Campus-Wide or Departmental License)**

This Attachment applies to the JMP software ("Software") being licensed under this Supplement.

1. Customer represents that it is a middle or high school, or post-secondary degree-granting institution and, except as provided in the following sentence, shall remain so during the term of the license including any renewals of the license. Immediately upon any loss in status of Customer as a middle or high school or post-secondary degree-granting institution, Customer shall notify SAS in writing of the change in its status and SAS may, at its discretion, increase the license fees to SAS' then prevailing commercial levels for the remainder of the then-current term and any subsequent renewals. Moreover, in order to receive academic-based fees for the license, during the term and each subsequent renewal, if any, Customer must standardize on the Software for at least one full semester course.
2. Subject to the terms of this Attachment, Customer is authorized to install the Software on an unlimited number of Customer's machines with the operating system(s) authorized in the above referenced Supplement. All such operating systems must be on SAS' current list of available operating systems with which the Software may be used on Customer's platforms.
3. Customer is authorized to use the Software only for purposes of classroom instruction, academic research, and/or course work ("Teaching and Research Purposes"). If the above-referenced Supplement indicates that the license is an Academic Departmental License, then the Software may be used only within Customer's School(s) or Academic Department(s) identified on the Supplement. If the Supplement indicates that the license is an Academic Campus-Wide License, then the Software may be used by all of Customer's Schools and Academic Departments. In either case, the Software shall only be accessed from the country or countries authorized under the above-referenced License Agreement.
4. Subject to the terms of this Attachment, an unlimited number of Customer's registered students and faculty members are authorized to use the Software for such Teaching and Research Purposes. In connection with such use, Customer's registered students and faculty members are authorized to install copies of workstation personal computer Software on their respective machines (subject to the operating system(s) limitation in Section 2 above).
5. The Software may not be used for any purposes other than the above-described Teaching and Research Purposes, including, without limitation, for commercial purposes or for personal financial gain. In addition the Software may not be used by any person who is not either a registered student or bona fide faculty member of Customer at the time of his/her use of the Software. Furthermore, the Software may not be used on any government owned or leased machines, or at a government owned or leased facility, or otherwise for the benefit of any federal, state, local or foreign government or governmental agency; provided that if Customer is owned or controlled by any such government or government agency, the foregoing shall not prohibit Customer's use of the Software for Teaching and Research Purposes as permitted by the Supplement and this Attachment on Customer owned or leased machines at Customer owned or leased facilities.
6. Customer shall be responsible for ensuring that all students and faculty members use the Software in a manner consistent with the terms and conditions contained in the Supplement, including this Attachment and the above-referenced License Agreement. Upon SAS' request, Customer shall promptly submit written proof to SAS' reasonable satisfaction of the manner in which the Software is used for Teaching and Research Purposes. Such proof shall include submission of course descriptions from Customer's catalogs and may also include press releases, published articles, or other relevant sources which provide evidence that the Software is included in Customer's curriculum and/or associated student research projects. Upon expiration of the license of the Software, Customer shall cease using the Software and shall instruct all of its students and faculty members who have installed copies of the Software on their respective machines to cease using the Software.
7. The license fee includes online documentation. Printed copies of documentation relating to the Software will be provided to Customer at SAS' then-prevailing rates.

Except as herein modified, all terms and conditions of the License Agreement and its Amendments and Supplements remain in full force and effect.

*If this Attachment is attached to a Demonstration Agreement or an Evaluation Agreement, the term "Supplement" shall be read to mean either "Demonstration Agreement" or "Evaluation Agreement" as appropriate.

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lg021.0186/01NOV07

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Supplement Number _____ ("Supplement")*
to Master License Agreement ("MLA")

SAS Institute Inc. ("SAS")
World Headquarters
SAS Campus Drive - Cary, North Carolina 27513
Tel: (919) 677 8000 - Fax: (919) 677 4444
<http://www.sas.com>

Customer Name: Virginia Department of Education ("Customer")	
Street Address: 101 N. 14th Street	
City, County, State, Zip Code: Richmond, Richmond Independent City County, VA 23219	Country (the "Territory"): U.S.A.
Taxpayer ID Number:	Currency Type: US Dollar (USD)

Software and Subcomponents ¹		Applicable Pricing Metric, Number of Authorized Units ²	Operating System ³	Authorized Hardware (CPU/Server Manufacturer, Model type/Serial No.) ³	**Initial Fees ⁴ (in above Currency Type)	License Beginning Date	Anniversary Date
FOR SAS USE ONLY							
Software:	Base SAS	CPU Based (2)	LINX	N/A	\$3,279		01AUG
Software:	SAS/ACCESS Interface to ORACLE	CPU Based (2)	LINX	N/A	\$2,198		01AUG
Software:	SAS/CONNECT	CPU Based (2)	LINX	N/A	\$2,198		01AUG
Software:	SAS/GRAPH	CPU Based (2)	LINX	n/a	\$2,198		01AUG
Software:	SAS/IntrNet	CPU Based(2)	LINX	N/A	\$2,198		01AUG
Software:	SAS/SHARE	CPU Based (2)	LINX	N/A	\$2,198		01AUG
Software:	Base SAS	CPU Based (2)	LINX	N/A	\$3,279		01AUG
Software:	SAS/CONNECT	CPU Based (2)	LINX	N/A	\$2,198		01AUG
Software:	SAS/GRAPH	CPU Based (2)	LINX	N/A	\$2,198		01AUG
Software:	SAS/IntrNet	CPU Based (2)	LINX	N/A	\$2,198		01AUG
Software:	SAS/SHARE	CPU Based (2)	LINX.	N/A	\$2,198		01AUG

1. Pricing metrics, operating systems and/or Authorized Hardware for subcomponents which differ from that of the Software with which they are associated are listed in the column that corresponds to the applicable subcomponent. Unless otherwise noted, the subcomponents listed here are included in the Software license fee for the Software product with which they are licensed or provided. Accordingly, unless indicated in an applicable pricing metric, Customer may use subcomponents only through the Software with which they are licensed, and Customer may not use or deploy any individual subcomponent as a replacement for other SAS software.
2. The pricing metric is used to derive license fees; for example, but without limitation, Capacity Based, Total Users, PC Use, etc. as described on page 2 of this Supplement. Certain pricing metrics contain additional terms that pertain to Customer's use of the Software. Prior to any license renewal period, SAS may propose pricing metric and license fee changes in the applicable renewal invoice sent to Customer or some other mutually agreed manner.
3. Customer must provide Operating System and Authorized Hardware information to SAS prior to shipment of Software.
4. Unless otherwise described in this Supplement, these are the first year license fees for the Software. Fees exclude taxes. Customer is responsible for taxes on its licensing of the Software.

*This Supplement supersedes and replaces Supplement Numbers 89 and 90 licensed by VA Department of Education (SAS Internal Site Numbers 529395 and 529396) under Institute Program Products Master License Agreement Number 03964 between SAS and the Commonwealth of Virginia and effects the transfer of the license of such products listed above from Institute Program Products Master License Agreement 03964 to Maser License Agreement Number 02853 between SAS and the Commonwealth of Virginia.

**Initial period license fees have been paid. Payment of license fees for renewal periods must be current prior to SAS process of transfer.

1. **License of Software.** This Supplement, any Attachments and the MLA (collectively, "Agreement"), govern Customer's license of the listed software ("Software") and any related user documentation provided by SAS.
 - 1.1. **Authorized Use.** The Software shall be accessed only by (a) Customer's employees and on site contractors ("Users") while doing work in the Territory solely for Customer, and (b) on a limited basis by third parties as herein specified. The license is an annual license which shall commence as of the License Beginning Date set forth on page 1. The license is renewed at the mutual agreement of the parties. Renewal is accomplished by SAS sending an invoice for the applicable Software license renewal fees and Customer paying the invoice.
 - 1.2. **Territory; Report Access.** Customer may install and use the Software (a) within the Territory listed on page 1 of this Supplement; (b) on a portable computer in countries outside the Territory for up to three (3) months of an annual license period; and (c) in a manner allowing any party in or outside the Territory limited access to Software applications to view reports showing results of Customer's analysis of Customer's data ("Reports"). Customer may allow this limited Report viewing via the internet, Customer's intranet or terminal emulation sessions.
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 - 1.5. **Other Uses of the Software.** Any uses of the Software other than as specifically allowed in the MLA and this Supplement shall be set forth in a written amendment containing terms and fees in consideration of such additional use. Examples of other uses include, but are not limited to, the following: (a) installation or use outside the Territory; (b) use for the benefit of a third party in exchange for compensation; (c) use in application or data service provision, outsourcing, time-sharing, data or information technology management, or other similar arrangements; (d) use to process third party data; (e) allowing any party other than Users to use, edit, modify, or otherwise access underlying Software, or to perform free form programming with the Software.
2. **Pricing Metrics.** The pricing metrics described herein apply to the Software and any Software subcomponents listed on page 1. For the avoidance of doubt, only those pricing metrics listed on page 1 apply to the Software and Software subcomponents licensed hereunder.
 - (a) **CPU Based** - The Software license fee is based on the total number of designated CPUs contained in the Authorized Hardware on which the Software is installed.
3. **Subcomponent Installations.** Some Software consists of subcomponents which may be used only in connection with a single Software configuration. When the Software requires installation of subcomponents on more than one hardware tier, the server-tier subcomponents may be installed only on the Authorized Hardware listed on page 1 of this Supplement. If authorized by SAS, however, some server-tier subcomponents also may be installed on separate hardware. Where the license fee is based on hardware capacity, then the separate hardware must have the same or lower classification as the Authorized Hardware. Software or subcomponents licensed to SAS by third parties may only be installed once.
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5. **Source Code; Copying.** Source code from which the Software object code is derived ("Source Code") is not being provided and is a trade secret of SAS and SAS' licensors to which access is not authorized. Neither Customer nor any other User shall reverse engineer, reverse assemble or decompile the Software or in any way attempt to recreate the Source Code, except and only to the extent applicable laws specifically prohibit such restriction. Customer may copy the Software for (a) disaster recovery and backup purposes, and (b) installation of personal computer Software authorized hereunder. Copyright and other proprietary rights notices in the Software shall not be deleted or modified.
6. **Payment.**
 - 6.1. **License Fee Calculations; Upgrades.** Customer agrees to (a) keep records of where the Software is being used and the extent of usage of the Software relative to the scope of the Software license, and (b) provide a copy of such records to SAS upon reasonable request. Customer may call or write SAS to change operating systems, Authorized Hardware or any factor affecting the applicable pricing metric or any additional use of the Software. These changes may result in additional license fees which are effective and will be invoiced as of the time of the change.
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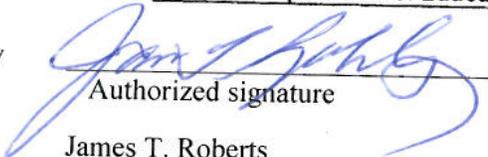
- 7.1. SAS' LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. SAS' LICENSORS PROVIDE THEIR SOFTWARE "AS IS."
- 7.2. SAS' LICENSORS ARE NOT LIABLE FOR DIRECT, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR RELIANCE DAMAGES (ARISING IN TORT, CONTRACT OR OTHERWISE), EVEN IF THEY HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.
- 7.3. NOTHING IN THIS SECTION NEGATES SAS' EXPRESS WARRANTIES OR LIABILITIES UNDER THE AGREEMENT.
- 8. **Additional Warranty Disclaimer.** The following warranty disclaimer shall be in addition to those set forth in the MLA: SAS AND ITS LICENSORS DO NOT WARRANT OR REPRESENT THAT THE SOFTWARE WILL RESULT IN COMPLIANCE, FULFILLMENT OR CONFORMITY WITH THE LAWS, RULES, REGULATIONS, REQUIREMENTS OR GUIDELINES OF ANY GOVERNMENTAL AGENCY.
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The individuals signing below represent they have authority to bind the named parties to this Supplement.

Accepted by:

Customer: Virginia Department of Education

SAS Institute Inc.

By 
 Authorized signature
James T. Roberts
 Name (type or print)
Director, Finance and Administration
 Title

By 
 Authorized signature
 Name (type or print)

 Victoria P. Clayton
 Senior Manager
 Contracts Administration
 SAS Institute Inc.

On 3/4/09
 Date

On January 28, 2009
 Date

JMJ/bi


Modification #1
Contract VA-003964-SAS

This modification is hereby incorporated into and made an integral part of Contract VA-003964-SAS between the Commonwealth of Virginia and SAS Institute, Inc.

The purpose of this modification is to change the above referenced agreement and create an Enterprise Computing Offer (ECO) for the Commonwealth of Virginia. The parties agree that the following terms and conditions shall govern this continuing offer.

1. The Enterprise Computing Offer applies to the SAS System for UNIX based processors, Open VMS AXP based processors, OS/2, Windows and Windows NT. Each operating system shall be licensed separately.
2. The Enterprise Computing Offer basic package includes the following products which are automatically licensed, if available in production versions under the Commonwealth's operating system(s), when "ECO" is designated under Institute Software on the Commonwealth's Delivery Order or Purchase Order, hereinafter referred to as "Orders".

Base SAS, SAS/AF, SAS/ASSIST, SAS/CALC, SAS/CONNECT, SAS/EIS, SAS/FSP, and SAS/GRAPH software, and SAS/TUTOR: Fundamentals of the SAS System.

3. Once the Commonwealth has designated ECO under an Order to receive the Enterprise Computing Offer basic package, the Commonwealth may avail itself of additional options, or license additional products, as follows:

- a. The STAT PLUS Option includes the following four products, if available in production versions under the Commonwealth's operating system(s), SAS/STAT, SAS/IML, SAS/INSIGHT, and SAS/LAB software and may be licensed by designating "STAT/PLUS" under an Order referencing this Agreement.

- b. The SAS/TUTOR PLUS Option includes all of the additional SAS/TUTOR on-line training products available in production versions under the Commonwealth's operating system(s) and may be licensed by designating "SAS/TUTOR/PLUS" under an Order referencing this Agreement.

- c. Additional products listed on the then-current Enterprise Computing Offer fee schedule may be licensed individually, if available in production versions under the Commonwealth's operating system(s), by designating the individual product name(s) under an Order referencing this Agreement.

4. The institute may from time to time change the product mix in the Enterprise Computing Offer. If the Institute adds products to those listed in the Enterprise Computing Offer basic package, STAT PLUS Option, of SAS/TUTOR PLUS Option designated by the Commonwealth in an Order, those products will be automatically provided to the Commonwealth and will be identified in a transmittal letter accompanying the media on which the products are shipped. All such added products shall be governed by the terms of this Agreement and any Order referencing this Agreement.

5. If the Institute discontinues inclusion of any option or of any product licensed by the Commonwealth under the Enterprise Computing Offer, the Commonwealth will receive written notice a least ninety (90) days prior to the anniversary date. At renewal, the product authorization code for the discontinued product will not be provided unless the product is licensed separately.

6. No products licensed under the Enterprise Computing Offer shall be used for remote computing services, timesharing, facilities management, or other third party access arrangement, even if contracts authorizing such use for other licensed products are in effect between the Commonwealth and the Institute.

The Commonwealth agrees to the following:

A. The Institute will license and ship the listed software to the Commonwealth upon acceptance by the Institute of each individual Order issued under this Agreement by the Commonwealth. Such Orders may be issued by individual agencies or institutions of the Commonwealth having Delegated Procurement Authority (DPA) from the Department of Information Technology. Contractor is advised that DPA categories are as follows:

Level I	\$5,000
Level II	\$30,000
Level III	Unlimited

The Institute recognizes that all agencies and institutions of the Commonwealth must comply with the requirements of the Virginia Public Procurement Act (VPPA) prior to issuing an Order to the Institute for software products described herein.

B. The Commonwealth may use the Software only on authorized hardware under this Agreement, unless otherwise provided in the Agreement. Authorized hardware must be owned by or leased by the Commonwealth and located on Commonwealth premises.

C. The Commonwealth shall allow use of the Software only by Commonwealth's employees and any contractors or consultants performing work solely for the Commonwealth. Contractors or consultants shall only access the Software while on Commonwealth's premises.

D. When Commonwealth licenses workstation or personal computer Software under an offer which is based on the number of "total users," the total number of individuals who have access to the Software during the license period must be counted and included in the total user increment under the license.

E. Commonwealth agencies or institutions who order Institute's products shall keep records of where personal computer and workstation Software are located, and will provide that information to the Institute upon reasonable request, not to exceed two individual requests in any one calendar year.

F. The Commonwealth shall not modify the Software except as the Institute specifically authorizes.

G. The Commonwealth shall not mask, modify, or suppress any copyright notice or other proprietary rights notices in the Software.

H. The Commonwealth shall label all authorized copies of the Software with the copyright and other proprietary rights notices appearing on the original media received from the Institute.

I. The Commonwealth shall not permit anyone having access to the Software to use the Software: (i) outside the USA, (ii) in a timesharing arrangement, (iii) as a rental, (iv) except as specifically permitted in the Agreement and any Orders executed under the Agreement.

J. The Software is copyrighted and unpublished. Title to the Software remains with the Institute at all times. Source Code not supplied with the Software ("Source Code") is an Institute trade secret. The Commonwealth is not authorized to access the Source Code; therefore, the Commonwealth may not reverse assemble, reverse engineer, or decompile the Software or access the Source Code by any means.

K. License fees during renewal periods will be in accordance with the above referenced Contract VA-003964-SAS. The Commonwealth's changes in operating system(s) may result in additional charges effective from the date of the change, which will be in accordance with the Institute's then-current applicable license fee schedule.

Delivery Order / Purchase Orders issued by the Commonwealth of Virginia to the Institute for Software. All Orders shall reference the following: (i) Delivery Address, (ii) Invoice Address, (iii) agency or institute point of contact/phone number, (iv) description of the Software and the designation that this is an "ECO Order", (v) price of the software licenses, (vi) requested delivery date, and (vii) number of users. All Orders will be delivered to the Institute at the following address:

SAS Institute, Inc.
SAS Campus Drive
Cary, NC 27513
Phone (919) 677-8000
Fax (919) 677-8123

Contract VA-003964-SAS and any future Orders referencing this Agreement are the parties complete agreement governing the licensing of the Software under this Agreement. Additional or conflicting terms in either Contractor's or Commonwealth's documents are rejected. With respect to the Software licensed under any Order (accepted by Contractor) may supersede and replace any terms in the Agreement which conflict with or are inconsistent with this Agreement.

All other terms and conditions remain unchanged.

PERSONS SIGNING THIS MODIFICATION ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

SAS INSTITUTE, INC.

COMMONWEALTH OF VIRGINIA

Dianne A. Johnson

Larry F. Schucht

Signature

Signature



Dianne A. Johnson
Director, Contracts Division
SAS Institute Inc.

Larry F. Schucht

Name

Contracts Manager

Title

June 10, 1994

May 27, 1994

Date DEP/dwc

Date

JRF
6-3-94
DEP
9/1/94

ADDENDUM
TO
CONTRACT NUMBER 3964

The terms and conditions of the Master License Agreement for Institute Program Products on Microcomputers Contract Number 3964 between SAS Institute Inc., hereinafter referred to as Contractor or Institute, and the Commonwealth of Virginia, hereinafter referred to as State or Customer, are hereby revised and incorporated by this Addendum.

3D. License Restrictions.

The first sentence is deleted in its entirety.

5A. Charges.

The last sentence is deleted in its entirety.

7B. Non-disclosure of Proprietary Property.

Delete the phrase "and shall assist the Institute in the prosecution of any parties who are using the MicroIPPs in violation of this Agreement." and replace with the following:

"and shall reasonably assist the Institute in the prosecution of any Parties who are using the MicroIPPs in violation of this Agreement."

7C. Non-disclosure of Proprietary Property.

Delete Paragraph C in its entirety and replace with the following:

"CUSTOMER AGREES THAT ITS OBLIGATIONS OF CONFIDENTIALITY DESCRIBED HERETOFORE IN THIS PARAGRAPH ARE BINDING FOR A PERIOD OF FIVE (5) YEARS BEYOND THE EXPIRATION OF THIS LICENSE AGREEMENT OR THE EXPIRATION OF ANY OTHER LICENSE AGREEMENT BETWEEN THE CUSTOMER AND THE INSTITUTE, WHICHEVER TERM IS LONGER."

8. Patent, Copyright and Trade Secret Indemnification.

Paragraph 8 is deleted in its entirety and replaced with the following:

"8. Patent/Copyright Protection.

Contractor, at its own expense, will defend any suit which may be brought against the State for the infringement of United States patents or copyrights arising from the Contractor's or State's use of any software, materials or information prepared or developed in connection with performance of the contract and in any such suit, Contractor will satisfy any final judgment or award for such infringement subject to 2.1-127 of the Code of Virginia. This is upon the condition that:

- a. The Contractor is notified of the suit within a reasonable time after the Commonwealth becomes aware of it; and,
- b. The Contractor has the full right and opportunity to conduct the defense of any such action. If, however, principles of governmental or public law are involved the State may, at its option, participate in the defense of any such action; provided the Institute shall have the right to accept or reject any settlement involving it.

The Contractor shall not indemnify the Commonwealth against any claim of infringement arising out of software made or modified to the agency's own specifications or design, any infringement based on the use of other than the latest unaltered release of the licensed MicroIPP available from the Institute if such infringement would have been avoided by the use of the latest unaltered release of the licensed MicroIPP, or any infringement that results from the combination of software furnished hereunder with software not supplied by the Contractor.

If in the Contractor's opinion the software, material or information furnished hereunder is likely to or does become the subject or claim of infringements of United States patents or copyrights, then without diminishing Contractor's obligation to satisfy said final award, Contractor may, at its option, substitute for the alleged infringing software, modifications comparable in performance to the original licensed software; or at the Contractor's option and expense, obtain the right for the State to continue the use of such software, or withdraw the MicroIPP from the market. If the use of such software by the State shall be prevented by permanent injunction, or Contractor's inability to procure the right for the State to continue using the software at a reasonable cost, or software is withdrawn from the market, the Customer or Contractor may terminate the license agreement as provided for in Sections 2 and 11 of this Agreement and the State shall receive a refund for the current paid license."

13A. Limitation of Liability.

The first paragraph is modified by adding at the end thereof "subject to Section 26."

13B. Limitation of Liability.

The first sentence is amended to read as follows:

"...negligence which introduces an error into the MicroIPP or any lost profits, or for any claim or demand against the Customer by any other party, except a claim for patent, trade secret or copyright infringement as provided herein."

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13C. Limitation of Liability.

Delete Paragraph C in its entirety.

13D. Limitation of Liability.

Delete Paragraph D in its entirety and replace with the following:

"NEITHER PARTY SHALL BE RESPONSIBLE FOR SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES EXCEPT THAT CUSTOMER SHALL BE RESPONSIBLE FOR DAMAGES RESULTING FROM CUSTOMER'S BREACH OF THE PROVISIONS OF THIS AGREEMENT SET FORTH IN SECTION 4, DISTRIBUTION, SECTION 7, NON-DISCLOSURE OF PROPRIETARY PROPERTY, SECTION 9, RESPONSIBILITIES OF THE PARTIES, AND SECTION 11, DISCONTINUANCE, AND ANY AMENDMENTS THERETO UPON CONDITION SUCH ARE AWARDED BY FINAL ORDER OF A COURT OF COMPETENT JURISDICTION. IN ADDITION, IN ANY ACTION FOR NON-PAYMENT OF CHARGES HEREUNDER, THE INSTITUTE ADVISES THAT IT MAY SEEK ATTORNEY'S FEES."

14A. General.

The first sentence is amended to read as follows:

"The term 'this Agreement' as used herein includes this Addendum and any future written amendments, modifications, or supplements made in accordance herewith."

14B. General.

Replace Paragraph B with the following:

"The Institute shall have the right to terminate this Agreement upon six (6) months' notice to the Customer prior to Customer's anniversary date."

15. Governing Law.

Replace this paragraph as follows:

"This Agreement will be governed by the laws of the United States of America and the Commonwealth of Virginia both as to execution, interpretation and performance."

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16. Controlling Terms.

Paragraph 16 is deleted in its entirety and replaced with the following:

"IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS AND CONDITIONS OF THE LICENSE AGREEMENT INCLUDING THIS ADDENDUM AND THE TERMS AND CONDITIONS OF ANY PURCHASE ORDER SUBMITTED BY THE CUSTOMER, THE TERMS AND CONDITIONS OF THE LICENSE AGREEMENT INCLUDING THIS ADDENDUM SHALL CONTROL."

18. Integration Clause.

The first paragraph is deleted in its entirety.

The words in the second and third lines of the second paragraph are amended to read as follows:

"AGREEMENT, INCLUDING THIS ADDENDUM, UNDERSTANDS IT, AND AGREES TO BE BOUND BY"

The words in line 11 of paragraph 2 which reads "UNLESS OTHERWISE PROVIDED HEREIN" are deleted.

The following statement is added as the last paragraph herein:

"THIS ADDENDUM IS HEREBY ATTACHED AND INCORPORATED."

The following paragraphs are added and incorporated:

"19. Taxes - Federal, State and Local.

The Commonwealth of Virginia is exempt from Federal excise and all State and Local taxes; such taxes shall not be included in Contract prices. Tax exemption certificates will be furnished if requested by the Contractor."

"20. Non-Appropriation.

All funds for payments after June 30th of the current fiscal year are subject to the availability of a legislative appropriation for this purpose. Payments during subsequent fiscal periods are dependent upon the same action. In the event of non-appropriation of funds by the Legislature for the items under this contract, the Commonwealth will terminate this contract on June 30th of the then current fiscal year. Written notice will be provided to the Contractor as soon as possible after legislative action is completed.

In the event funding for the payment of invoices is subject to the availability of Federal funding, and such Federal funding is not made available, this Contract may be terminated effective the date of non-availability of funds for those items dependent on Federal funds only."

"21. Non-Assignment.

"Neither party shall assign or otherwise transfer its rights, duties and/or obligations under this Contract, except with the prior written consent of the other party, which consent shall not be unreasonably withheld; any assignment or transfer without such consent shall be null and void. The State, however, shall at all times be entitled to assign or transfer its rights, duties and/or obligations under this Contract to another agency of the Commonwealth of Virginia, upon giving fifteen (15) days written notice to Contractor."

"22. Amendments.

No amendment to this Contract shall be effective unless it is in writing and signed by the duly authorized representatives of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing. For purposes of the Contract, the only authorized representatives shall be:

Commonwealth of Virginia

Contracts Manager
Department of Information Technology
110 South 7th Street/Lobby Floor
Richmond, VA 23219

SAS Institute Inc.

Manager, Contracts Administration
SAS Circle
P. O. Box 8000
Cary, North Carolina 27511

"23. Contract Orders.

Delivery Orders and/or Purchase Orders for Contractor supplied software, maintenance or other services may be attached to this Contract. In the absence of any specific provisions to the contrary, it is hereby stipulated and agreed that the terms and conditions of this Contract will have priority in the resolution of contractual matters."

"24. Certifications.

Contractor hereby certifies its compliance with the following:

- A. Comprehensive Conflict of Interest Act.
- B. Virginia Freedom of Information Act.
- C. Virginia Fair Employment Contracting Act.
- D. Virginia Governmental Frauds Act.
- E. Virginia Public Procurement Act.

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"25. Contractual Records.

Copies of contractual books, records and other documents related to payments by the Customer under this Contract shall be made available by Contractor to the State and its designated agents for a period of five (5) years after final payment for purposes of audit and examination."

"26. Liability.

In the event the Contractor performs any services to State under this Agreement on State's premises, Contractor shall maintain such personal injury and property damage liability insurance as necessary to protect itself from claims arising out of the performance of this Contract. Contractor shall indemnify and hold harmless the State, its agencies, employees and designated representatives from any and all claims, suits, actions, liabilities and costs of any kind caused by the performance by the Contractor of its work under this Contract. Nothing contained herein shall be deemed as an expressed or implied waiver of the sovereign immunity of the State, or a pledge of the full faith and credit of the State."

"27. Contingent Fee Warranty.

The Contractor warrants that he/it has not employed or retained any person or persons, except Contractor's regular full-time employees, for the purpose of soliciting or securing this agreement. The Contractor further warrants that he/it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon the award or making of this Agreement. For breach of one or both of the foregoing warranties, the State shall have the right to terminate this agreement without liability, or, in its discretion, to deduct from the agreed fee, payment or consideration, or otherwise recover, the full amount of said prohibited fee, commission, percentage, brokerage fee, gift, or contingent fee."

"28. Virginia Public Procurement Act.

Employment discrimination by Contractor is prohibited during the performance of this Contract and the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor."

"29. State Rights to Computer Software.

- a. The State's rights in computer software developed at private expense and provided hereunder by the Contractor may be restricted by the Contractor. As a minimum, however, the State shall have:
 - (1) Unlimited use of such software on computer systems for which or with which it is acquired provided, however, that the State complies with the terms and conditions of this Agreement and Addendum and that the authorized number of "single user workstations" is not exceeded.
 - (2) Use of such software with a backup system if the System for which or with which it was acquired is inoperative because of a malfunction, or during an emergency, or the performance of engineering changes until the system is restored to normal operation.
 - (3) The right to use such software with designated computer at any State installation to which the designated computer may be transferred by the State;
- b. Notwithstanding any of the provisions contained in the parties agreement, the State will have the right to use any information that is now generally known to the public or to use any information from and after the time it becomes so known, provided that such information does not or has not become so known through disclosure by the State or by any other person or entity in breach of obligations owed to the Institute."

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"30. Contractual Claims.

Contractual claims arising under this agreement are subject to the Virginia Public Procurement Act."

"31. General.

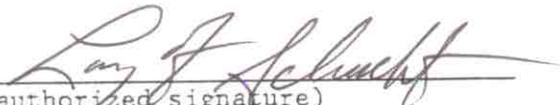
In the event of any conflicts between the terms and conditions of this addendum and the terms and conditions of the Master License Agreement for Institute Program Products on Microcomputers, the terms and conditions of this addendum shall prevail."

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT, AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

SAS Institute Inc.

Commonwealth of Virginia

By 
(authorized signature)

By 
(authorized signature)

Dianne A. Johnson
Name (type or print)

Larry F. Schucht
Name (type or print)

Manager, Contracts Administration
Title

Contracts Manager
Title

On March 26, 1987
Date

On June 29, 1987
Date



Master License Agreement for Institute Program Products on Microcomputers

This Master Agreement (hereinafter "Agreement") is made by and between SAS Institute Inc., SAS Circle, P. O. Box 8000, Cary, North Carolina 27511 ("Institute")

and Commonwealth of Virginia - Dept. of Health

James Madison Building - Room 309, 109 Governor Street

Richmond, Virginia 23219

_____ ("Customer")

1. **Subject of Agreement.** The Institute agrees to grant, and the Customer agrees to accept, under the following terms and conditions nontransferable, nonexclusive licenses to use the Institute Program Products on Microcomputers ("MicroIPPs") listed in any executed Supplement to this Agreement. Customer's rights hereunder are those of a licensed user only. MicroIPPs shall at all times remain the property of the Institute.

Definitions:

2. **Term.** MicroIPP licenses shall be in effect for a period of one (1) year, except for prorated licenses as defined in paragraph 3, and shall be automatically renewable for additional one year periods. All terms and conditions of this Agreement except the "license beginning date" as defined in paragraph 3 are deemed to be in effect on the date on which it is accepted by the Institute at its office in Cary, North Carolina, and shall remain in full force unless terminated as provided herein. The Customer may terminate this Agreement on thirty (30) days' prior written notice to the Institute once it has discontinued use of all MicroIPPs and has given notice of such discontinuance in accordance with paragraph 11, provided that the Customer is not in breach of any provisions of this Agreement. The Institute may discontinue any MicroIPP license or terminate this Agreement if the Customer fails to comply with any of its terms and conditions.

3. License.

A. **MicroIPP License:** MicroIPP licenses granted under this Agreement authorize the Customer to use the MicroIPPs at a specified number of single user workstations located within the United States and Canada as set forth in Supplements to this Agreement. A "single user workstation" shall be defined to include any device from which the MicroIPPs may be used or accessed. Where networks of Intelligent and Nonintelligent terminals are used each such Intelligent or Nonintelligent terminal shall be counted as a separate single user workstation.

B. **License Period:** The initial MicroIPP license shall be in effect for a period of one (1) year from the "license beginning date" specified by the Institute in the Supplement for that MicroIPP. The Institute will establish a "license beginning date" approximately forty-five (45) days after the date the Institute exe-

cutes this License Agreement and/or any new MicroIPP Supplements hereto. The forty-five (45) day period is granted to allow time for delivery, installation and Customer trial. A forty-five (45) day period is not provided for additional copies of currently licensed MicroIPPs.

The MicroIPP license "anniversary date" shall be one (1) year from the initial "license beginning date." All new, additional and interim MicroIPP licenses shall be prorated so that billing dates for all licensed MicroIPPs will fall on the same date which will be the "anniversary date" of the initial MicroIPP license. All license fees shall be prorated accordingly.

C. **Trial Period:** During the trial period, Customer may return licensed MicroIPPs to Institute with Customer's notice of rejection. If written notice of rejection is not received by Institute prior to "license beginning date" then MicroIPPs are deemed accepted by Customer.

D. **License Restrictions:** 1) ~~Nonassignment: This Agreement and any Supplements thereto may not be assigned, sublicensed, or otherwise transferred by the Customer without the prior written consent of the Institute.~~ 2) **Equipment:** MicroIPPs may only be used or accessed on Customer owned or leased equipment. 3) **End-User:** MicroIPPs may be used or accessed only by Customer's employees and in the case of degree-granting institutions by registered students. 4) **Unauthorized Use:** Customer may not make the licensed MicroIPPs available on a time-sharing, rental or any other basis not specifically authorized by this Agreement. Any violation of this section must be immediately reported to Institute.

4. Distribution:

A. **Institute Distribution:** Institute will, at its option, supply either one (1) set of master diskettes or one (1) copy of the MicroIPPs on tape. Customer may distribute or download MicroIPPs to Customer owned/leased single user workstations for use solely within the United States of America and Canada unless otherwise provided for in writing.

B. **Copyright Notices:** Each copy residing on a transportable medium shall bear the identical copyright notice and any other proprietary notice set forth on the original MicroIPPs. Labels shall be provided by Institute for this purpose.

Each copy shall also contain the internal institute copyright notice and any other proprietary notices contained in the original MicroIPPs. These notices shall be in human-readable form when viewed by the "End-User" on the screen.

C. **Offsite Reproduction:** Reproduction by anyone other than Customer shall be permitted only with the prior written consent of the Institute. Customer shall be responsible for assuring that Institute's proprietary rights are not violated.

D. **Single User Workstation List:** Customer, through its SAS Software Installation Representative, shall maintain a list indicating the physical location of each single user workstation used to access the MicroIPPs. Said list is subject to Institute review on five (5) days' notice during normal working hours.

E. **Employee Terminations:** Upon the termination of employment by any employee of Customer, Customer is obligated to take possession of any copy of the MicroIPPs in the possession of said terminating employee.

F. **Employee Home Use of MicroIPPs:** Customer may permit home use of MicroIPPs if prior to any employee removing MicroIPPs from Customer's premises, (1) employee signs a statement acknowledging that MicroIPPs are copyrighted, proprietary work belonging to Institute, (2) further agrees that employee will not copy or permit copying or access to MicroIPPs by anyone, and (3) employee agrees to return MicroIPPs if no longer employee of Customer or if Customer discontinues MicroIPPs license. Section 3 D(2) above shall not apply to employee home use. Any such home use shall not count as a "single user workstation" under section 3A of this agreement. However, the total number of "single user workstations" per product used by employees at home cannot exceed the total number of "single user workstations" per product licensed under this agreement.

5. Charges:

A. Initial year license fees are due within thirty (30) days after the "license beginning date." MicroIPPs yearly license and renewal fees are subject to change by Institute upon three (3) months' written notice. ~~To any charges under this Agreement there shall be added amounts equal to any federal, state, or local taxes, now or hereafter levied with respect to the charges set forth herein, which the Institute has the legal obligation to collect and/or pay, exclusive of personal property taxes assessed on the licensed MicroIPPs and taxes based on net income.~~

B. Approximately one (1) month before the MicroIPP yearly anniversary date, the Institute will invoice Customer for the next year's license fee. Customer's payment of the invoice within thirty (30) days will signify its renewal of the MicroIPPs license for one (1) year. Failure to pay the invoice within thirty (30) days after the anniversary date shall constitute non-renewal of the license. Customer must immediately discontinue use of the MicroIPPs and notify the Institute of its discontinuance as provided in Paragraph 11 herein.

C. (1) **Annual Single User Workstation Inventory:** It is Customer's responsibility at least thirty (30) days prior to the yearly anniversary date to report increases in the number of single user workstations which use or access MicroIPPs, including projected additional single user workstations for the renewal period. Institute shall send Customer "Renewal Notice" sixty (60) days prior to yearly anniversary date.

(2) **Interim Increases of Single User Workstations:** Customer shall have the right to increase the number of single user workstations which use or access MicroIPPs beyond the currently licensed number without violating this Agreement if within thirty (30) days of such increased use, Customer notifies Institute in writing of the date, and amount of increased use, pays the interim Institute invoice within thirty (30) days of Customer's receipt of said invoice and executes the necessary Supplement to this Agreement. Licenses will be granted in increments as set forth in the then current Institute MicroIPP fee schedule.

6. Customer Service.

A. Customer shall designate one (1) SAS Software Installation Representative and one (1) SAS Software Consultant, who shall act as liaison between the "End-User" and Institute to obtain support as set forth below.

B. The Institute will offer limited consultation, via telephone or writing, on specific problems that arise in the installation and use of licensed MicroIPPs (including consultation to correct MicroIPP errors or to offer suggestions as to their circumvention). Institute shall be required to provide support for any prior release for a period of three (3) months after Customer receipt of the current release. In addition, program corrections may be sent to the Customer to modify or correct existing errors in the MicroIPPs.

HOWEVER, THE INSTITUTE NEITHER GUARANTEES CONSULTATION RESULTS NOR REPRESENTS OR WARRANTS THAT ALL ERRORS OR BUGS WILL BE CORRECTED.

7. Non-disclosure of Proprietary Property.

A. The MicroIPPs are an Institute proprietary development and constitute a valuable work product in the form of trade secrets, know-how, copyrighted and confidential information. Customer will use all reasonable efforts to limit access to the MicroIPPs to its employees, and will ensure that such employees will respect and acknowledge the trade secrets, know-how, copyrighted and confidential information contained in the MicroIPPs.

CUSTOMER FURTHER AGREES THAT IT WILL NOT REVERSE ENGINEER OR DECOMPILE THE MICROIPPS.

B. Should any portion of the MicroIPPs be compromised, Customer will immediately notify the Institute of the circumstances surrounding such compromise ~~and shall assist the Institute in the prosecution of any parties who are using the MicroIPPs in violation of this Agreement.~~

~~C. CUSTOMER AGREES THAT ITS OBLIGATIONS OF CONFIDENTIALITY DESCRIBED HERETOFORE IN THIS PARAGRAPH ARE BINDING IN PERPETUITY AND, AS SUCH, SURVIVE THE TERM OF THE AGREEMENT.~~

8. Patent, Copyright and Trade Secret Indemnification.

- ~~A. The Institute will defend at its expense any action brought against the Customer to the extent that it is based on a claim that a licensed MicroIIP, used within the scope of the license hereunder, infringes a copyright, trade secret or patent in the United States and Canada. The Institute will pay any settlement fee, costs, damages, and attorney's fees finally awarded against the Customer in such action which are directly attributable to such claim, provided the Customer notifies the Institute promptly in writing of the claim and that the Institute has sole control of any proceedings, and it is given complete authority and cooperation by the Customer and all information necessary for it to conduct the defense or settlement of such claim.~~
- ~~B. Should a licensed MicroIIP become, or in the Institute's opinion be likely to become, the subject of a claim of infringement of a copyright, trade secret or patent, the Institute may at its option procure for the Customer the right to continue using the licensed MicroIIP, replace or modify the MicroIIP to make it noninfringing or withdraw the MicroIIP from the market.~~
- ~~C. The Institute shall have no liability for any claim of copyright, trade secret or patent infringement based on: (1) use of other than the latest unaltered release of the licensed MicroIIPs available from the Institute if such infringement would have been avoided by the use of the latest unaltered release of the licensed MicroIIPs or (2) use or combination of the licensed MicroIIPs with non-Institute programs or data if such infringement would have been avoided by the nonuse or noncombination of the licensed MicroIIPs or any parts thereof.~~
- ~~D. THE FOREGOING STATES THE ENTIRE LIABILITY OF THE INSTITUTE WITH RESPECT TO INFRINGEMENT OF ANY COPYRIGHTS, TRADE SECRETS OR PATENTS BY THE LICENSED MICROIPPS OR ANY PARTS THEREOF.~~

9. Responsibilities of the Parties.

- A. Institute: From time to time during the existence of this Agreement, the Institute will furnish updated copies of the licensed MicroIIPs to the Customer.
- B. Customer: Customer shall be exclusively responsible for the supervision, management, and control of its use of the licensed MicroIIPs, including but not limited to: (1) assuring proper machine configuration and MicroIIPs installation, (2) establishing adequate backup plans, and (3) implementing sufficient procedures to satisfy its requirements for security and accuracy of input and output as well as restart and recovery in the event of a malfunction, (4) maintaining accurate records of employee use of Institute MicroIIPs as required in Paragraph 4, and (5) notifying Institute in writing of the name and location of its SAS Software Installation Repre-

10. Order and Delivery.

Orders for particular MicroIIP licenses should be made in writing by executing Supplements (sample attached) to this Agreement. When possible, licensed MicroIIPs will be shipped to Customer within ten (10) business days after the Institute executes this Agreement and Supplement(s). However, the Institute does not represent or warrant that such shipment dates will be met.

Complete installation instructions are provided with the MicroIIPs. If any licensed MicroIIPs are lost or damaged during shipment, the Institute will replace the MicroIIPs at no additional charge to Customer.

11. Discontinuance.

Within one (1) month after the date of discontinuance of any MicroIIP licenses under this Agreement, the Customer will:

- (1) Certify in writing that through its best efforts, and to the best of its knowledge, the original and all copies on tape, diskette, hard disk or other medium, in whole or in part, in any form, including partial copies and modifications, of the licensed MicroIIPs received from the Institute or made in connection with such license have been destroyed, except that upon prior written authorization from the Institute, the Customer may retain a copy for archive purposes.
- (2) Notify all employees that MicroIIP licenses have been terminated and further use is prohibited.
- (3) Forward a copy of the current list containing location of each single user workstation used to access the MicroIIPs pursuant to Paragraph 4(d).

12. Warranty.

The Institute warrants that the licensed MicroIIPs will conform to published specifications, if any, when shipped to the Customer. Sample data will be shipped with the licensed MicroIIPs to assure that the Customer has received a valid copy. **IT IS CUSTOMER'S RESPONSIBILITY TO DETERMINE MACHINE COMPATIBILITY WHEN USING NON-IBM HARDWARE. CONTINUED OR FUTURE COMPATIBILITY WITH NON-IBM HARDWARE IS NOT GUARANTEED.**

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

13. Limitation of Liability.

- A. The Customer agrees that the Institute's liability hereunder for damages, excluding liability for copyright, trade secret or patent infringements, regardless of the form of action, shall not exceed the most recent yearly charges paid by the Customer for the particular licensed MicroIIPs involved.
- B. The Customer further agrees that the Institute will not be liable for negligence or any lost profits, or for any claim or demand against the Customer by

any other party, except a claim for patent, trade secret or copyright infringement as provided herein.

C. ~~No action regardless of form arising out of the transactions under this Agreement may be brought by either party more than one (1) year after the cause of action has accrued, except that an action for nonpayment or infringement of proprietary rights may be brought at any time as permitted by law.~~

D. ~~IN NO EVENT WILL THE INSTITUTE BE LIABLE FOR CONSEQUENTIAL DAMAGES EVEN IF THE INSTITUTE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.~~

14. General.

A. The term "Agreement" as used herein includes any future written amendments, modifications, or supplements made in accordance herewith. The Customer agrees that its acceptance of future delivery of any licensed MicroIPPs from the Institute is conclusive evidence of its agreement that the license for such MicroIPPs is governed by the terms of this Agreement.

B. ~~The terms of this Agreement may be modified by the Institute upon six (6) months' written notice to the Customer, except for the terms and conditions which relate specifically to: (1) discontinuance of this Agreement or licenses granted under this Agreement as provided in the section of this Agreement entitled "Term," and (2) charges for licenses granted under this Agreement as provided in the section of this Agreement entitled "Charges."~~

Accepted by:

SAS Institute Inc.

By 
Authorized signature

Dianne A. Johnson
Name (type or print)

Manager, Contracts Administration
Title

Date March 26, 1987

15. Governing Law.

This Agreement will be governed by the laws of the United States of America and the State of North Carolina both as to interpretation and performance.

16. Controlling Terms.

~~IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS AND CONDITIONS OF THE LICENSE AGREEMENT AND THE TERMS AND CONDITIONS OF ANY PURCHASE ORDER OR OTHER INSTRUMENT SUBMITTED BY THE CUSTOMER, THE TERMS AND CONDITIONS OF THE LICENSE AGREEMENT SHALL CONTROL.~~

17. Unconscionability Clause.

It is expressly agreed and understood by the parties hereto that if any provision of this Agreement is held to be unconscionable or invalid under any applicable statute or rule of law, it is deemed to that extent to be omitted. However, the balance of the Agreement shall remain in full force and effect.

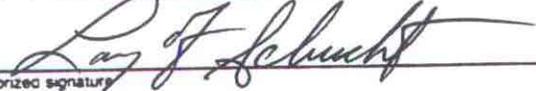
18. Integration Clause:

~~THE CUSTOMER'S REMEDIES IN THIS AGREEMENT ARE EXCLUSIVE.~~

THE CUSTOMER ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS, AND FURTHER, AGREES THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES, WHICH SUPERSEDES ALL PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT. THIS AGREEMENT, ~~UNLESS OTHERWISE PROVIDED HEREIN,~~ CAN ONLY BE MODIFIED IN WRITING, SIGNED BY BOTH CUSTOMER AND INSTITUTE.

The Addendum to this License Agreement is attached hereto and made a part hereof.

Customer The Commonwealth of Virginia

By 
Authorized signature

Larry F. Schucht
Name (type or print)

Contracts Manager
Title

Date June 29, 1987