



Commonwealth of Virginia  
Virginia Information Technologies Agency

## MICROSOFT ENTERPRISE AGREEMENT - STATE AND LOCAL

### Optional Use Contract

Date: June 12, 2013

Contract #: VA-020409-MSE

Authorized User: State Agencies and Public Bodies

Contractor: Microsoft  
One Microsoft Way  
Redmond, WA 98052-6399

FIN: 91-1144442

Contact Person: See page 2 for appropriate representative for State & Local Government and their contact information.

Term: May 1, 2010 – April 30, 2014

Payment: Net 30 days

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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>

**VIRGINIA INFORMATION TECHNOLOGIES AGENCY (VITA):** Prior review and approval by VITA for purchases in excess of \$100,000.00 is required for State Agencies and Institutions only.



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Microsoft Volume License Site (MVLS)  
(License history)

<https://www.licensing.microsoft.com>

Select Online User Guide

<http://www.selectug.mslicense.com>

MS Customer Service Center  
(Key codes)

800-352-7140

Microsoft Product Use Rights/Product List

<http://www.microsoft.com/licensing>

**NOTE: Microsoft does not sell Select software products except through Large Account Resellers (LARs). To place orders for Microsoft Products, see Contract #VA-020409-DELL. Dell Marketing L.P. is the Large Account Reseller (LAR) for Microsoft products.**

Dell Select State and Local Government  
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# Enterprise Agreement

# State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

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

**Effective date.** The effective date of this agreement is the effective date of the first Enrollment or the date Microsoft accepts this agreement, whichever is earlier. Any reference in this agreement or an Enrollment to "day" will be a calendar day.

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

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

## ***Terms and Conditions***

### **1. *Definitions.***

"Affiliate" means

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

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

(iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and

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

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

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

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

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

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

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

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

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

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

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

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

"Product" means all software, Online Services and other web-based services, including pre-release or beta versions, identified on the Product List.

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

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

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

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

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

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

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

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

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

- a. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments.
- b. **Licenses.** The types of Licenses available are L&SA, Licenses obtained under Software Assurance and Subscription Licenses. These License types as well as additional License Types are defined in the Product List.
- c. **How Enrolled Affiliates acquire Licenses.** An Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders will be made out to and submitted to the Enrolled Affiliate’s Reseller. Microsoft will invoice that Reseller according to the terms in the applicable Enrollment.
- d. **Choosing and maintaining a Reseller.** Each Enrolled Affiliate must choose and maintain a Reseller authorized in the Enrolled Affiliate’s location.
- e. **Pricing.**
  - (i) **Establishing Price Levels.** Each Product generally is assigned to a Product pool (e.g., applications, systems, or servers). Each Product pool will be assigned one of four price levels (A, B, C, and D). Enrolled Affiliate’s Price Level will be Level D for all Enterprise Products, Enterprise Online Services, Online Services and Additional Products ordered under any Enrollment.
  - (ii) **Placing Orders through Reseller.** Orders under an Enrollment will be made to the Reseller. Microsoft will invoice the Reseller according to the terms in the applicable Enrollment. Throughout this agreement the term “price” refers to reference price. The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate’s actual price and payment terms.
- f. **Order Requirements.** Order Requirements are outlined in each Enrollment.
- g. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft’s Volume Licensing Service Center (“VLSC”) web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.

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

- a. **General.** Enrolled Affiliate will have the number of Licenses ordered for the latest version of a Product, and may use prior versions as permitted in the Product Use Rights, so long as Microsoft receives timely orders from Reseller for all required Licenses for such Products and complies with applicable license terms. The Licenses obtained under an Enrollment are not

related to any order or fulfillment of software media. The ability to use a Product ordered may be affected by minimum hardware or software requirements.

- b. Use by Affiliates.** The Enrolled Affiliate may sublicense the right to use the Products to any Affiliates covered under its Enrollment, but Affiliate recipient of these Licenses may not sublicense these rights and their use must be consistent with the License terms contained in this agreement.
- c. When Licenses become perpetual.** The right to run any Product licensed under an Enrollment is temporary unless and until it becomes perpetual as follows:
  - (i)** A License is temporary until Enrolled Affiliate's Reseller has paid for a License in full and the applicable initial Enrollment or renewal term during which the License was ordered must have expired or been terminated as permitted in this agreement.
  - (ii)** Subscription Licenses are never perpetual. If a buy-out option is available, Enrolled Affiliate may obtain a perpetual License by exercising the buy-out option and paying for the License in full.
  - (iii)** Enrolled Affiliate will have perpetual Licenses to use the Products ordered in the latest version available (or any prior version) as of the date of expiration, termination, or renewal.
  - (iv)** All perpetual Licenses acquired under this agreement remain subject to the terms of this agreement and such terms survive expiration or termination of this agreement or an Enrollment.
- d. Perpetual Licenses through Software Assurance.** Perpetual Licenses received through Software Assurance supersede and replace the underlying perpetual Licenses for which Software Assurance coverage was ordered. In the case of Early Termination, the terms in Section 7 titled "Term and Termination will apply."
- e. License confirmation.** This agreement, the applicable Enrollment, the Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of Licenses, together with proof of payment, will be the Enrolled Affiliate's evidence of all Licenses obtained under its Enrollment.
- f. Reorganizations, consolidations, and privatizations.** If the number of Qualified Devices or Qualified Users covered by an Enrollment changes by more than ten percent as a result of a reorganization, consolidation, or privatization of an Enrolled Affiliate, Microsoft will work with the Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this agreement. If an Enrolled Affiliate consolidates with a third party with an existing agreement or enrollment, Microsoft will work with the Enrolled Affiliate in good faith to accommodate its changed circumstances in the context of this agreement.

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

- a. Product Use Rights.** The Product Use Rights in effect on the effective date of an Enrollment will apply to Enrolled Affiliate's use of then-current versions of each Product (excluding Online Services). For future versions, the Product Use Rights in effect when those future versions are first released will apply. In both cases, subsequent changes made by Microsoft to the Product Use Rights for a particular version will not apply to Enrolled Affiliate's use of that version, unless Enrolled Affiliate chooses to have such changes apply. The use rights for Online Services and the process for updating them as the Online Services evolve are detailed in the Product Use Rights.
- b. Product Use Rights for earlier versions (downgrade).** If Enrolled Affiliate runs an earlier version of a Product than the version that was current on the Enrollment effective date, the Product Use Rights for the version licensed, not the version being run, will apply. However, if

the earlier version includes components that are not part of the licensed version, any Product Use Rights specific to those components will apply to Enrolled Affiliate's use of those components.

- c. **Reservation of rights.** All rights not expressly granted are reserved.

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

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

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

- a. **License transfers.** You may transfer fully-paid perpetual Licenses:
  - (i) if you are an agency of the U.S. Government, to another agency of the U.S. Government or to an unaffiliated third party in connection with (i) a privatization of the government agency or of an operating division of an Enrolled Affiliate or one of its government agency affiliates, (ii) a reorganization, or (iii) a consolidation; or

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

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

- a. **Term.** The term of this agreement will be 36 months from the Effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this agreement, without cause, upon 60 days written notice. Such termination will merely terminate either party's and its Affiliates' ability to enter into new Enrollments under this agreement. Such termination will not affect any Enrollment or order not otherwise terminated, and any terms of this agreement applicable to any Enrollment or order not otherwise terminated will continue in effect with respect to that Enrollment or order. An Enrolled Affiliate may terminate an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Enrollment are not appropriated or allocated for such purpose.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Either party to an Enrollment may terminate it if the other party materially breaches its obligations under this agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice and opportunity to cure.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft will give Customer a copy of that notice as well and Customer agrees to assist in attempting to resolve the breach. If the breach also affects other Enrollments and cannot be resolved between Microsoft and Customer within a reasonable period of time, Microsoft may also terminate this agreement and all other Enrollments under it, unless the basis for termination of the Enrollment is non-appropriation of funds to the Enrolled Affiliate, in which event Microsoft may only terminate the affected Enrollment(s). If an Enrolled Affiliate ceases to be Customer's Affiliate, Customer must promptly notify Microsoft, and Microsoft may terminate its Enrollment.

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

## **8. Restrictions on use.**

Enrolled Affiliate must not:

- a. separate and use the components of a Product on two or more computers, upgrade or downgrade components at different times, or transfer components separately, except as provided in the Product Use Rights;
- b. reverse engineer, decompile or disassemble any Product or Fix, except where applicable law permits it despite this limitation; or
- c. distribute, sublicense, rent, lease, lend, or host any Product or Fix except as permitted in the Product Use Rights or in a separate written agreement.

## **9. Non-Microsoft software or technology.**

- a. Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes. Microsoft is not a party to and is not bound by any terms governing Enrolled Affiliate's use of non-Microsoft software or technology. Without limiting the foregoing, non-Microsoft software or scripts linked to or referenced from any Product website, are licensed to Enrolled Affiliate under the open source licenses used by the third parties that own such code, not by Microsoft.
- b. If Enrolled Affiliate installs or uses any non-Microsoft software or technology with the Products or Fixes, it directs and controls the installation in and use of such software or technology in the Products or Fixes, through its actions (e.g., through Enrolled Affiliate's use of application programming interfaces and other technical means that are part of the Online Services). Microsoft will not run or make any copies of such non-Microsoft software or technology outside of its relationship with Enrolled Affiliate.
- c. If Enrolled Affiliate installs or uses any non-Microsoft software or technology with the Products or Fix, it may not do so in any way that would subject Microsoft's intellectual property or technology to obligations beyond those included in the agreement.

## **10. Confidentiality.**

To the extent permitted by applicable law, the terms and conditions of this agreement are confidential. Neither party will disclose such terms and conditions, or the substance of any discussions that led to them, to any third party other than Affiliates or agents, or to designated or prospective resellers who: (1) have a need to know such information in order to assist in carrying out this agreement; and (2) have been instructed that all such information is to be handled in strict confidence.

For the avoidance of doubt, the parties acknowledge that this Confidentiality provision recognizes that when there is a business need to do so, Microsoft and Customer may need to share/exchange their respective Confidential Information with each other to develop a more meaningful business relationship. This section provides Microsoft and Customer with a well-balanced, commercially reasonable and comprehensive set of confidentiality terms that enable both parties to share/exchange a wide range of Confidential Information with each other knowing with confidence that significant confidentiality protections are in place. The confidentiality terms denoted below do not govern Microsoft's handling of Customer Data. In all instances under this Agreement, Microsoft's handling of Customer Data shall be governed as described under various other provisions of this Agreement and by Microsoft's data security policy.

- a. **What is included.** "Confidential Information" is non-public information, know-how and Trade Secrets in any form that are designated as "confidential" or a reasonable person knows or reasonably should understand to be confidential. It includes non-public information regarding either party's products or customers, marketing and promotions, or the negotiated terms of Microsoft agreements.

- b. What is not included.** The following types of information, however marked, are not Confidential Information. Information that:
- (i) is, or becomes, publicly available without a breach of this agreement;
  - (ii) was lawfully known to the receiver of the information without an obligation to keep it confidential;
  - (iii) is received from another source who can disclose it lawfully and without an obligation to keep it confidential;
  - (iv) is independently developed; or
  - (v) is a comment or suggestion one party volunteers about the other's business, products or services.
- c. Treatment of Confidential Information.**
- (i) **In general.** Subject to the other terms of this agreement, each party agrees:
- 1) it will not disclose the other's Confidential Information to third parties; and
  - 2) it will use and disclose the other's Confidential Information only for purposes of the parties' business relationship with each other.
- (ii) **Security precautions.** Subject to the other terms of this agreement, each party agrees:
- 1) to take reasonable steps to protect the other's Confidential Information -- these steps must be at least as protective as those the party takes to protect its own Confidential Information;
  - 2) to notify the other promptly upon discovery of any unauthorized use or disclosure of Confidential Information; and
  - 3) to cooperate with the other to help regain control of the Confidential Information and prevent further unauthorized use or disclosure of it.
- (iii) **Sharing Confidential Information with Affiliates and representatives.**
- 1) A "Representative" is an employee, contractor, advisor, or consultant of one of the parties or of one of the parties' Affiliates.
  - 2) Each party may disclose the other's confidential information to its Representatives (who may then disclose that Confidential Information to other of that party's Representatives) only if those Representatives have a need to know about it for purposes of the parties' business relationship with each other. Before doing so, each party must:
    - A. ensure that Affiliates and Representatives are required to protect the Confidential Information on terms consistent with this agreement; and
    - B. accept responsibility for each Representative's use of Confidential Information.
  - 3) Neither party is required to restrict work assignments of Representatives who have had access to Confidential Information. Neither party can control the incoming information the other will disclose to it in the course of working together, or what that party's Representatives will remember, even without notes or other aids. Each party agrees that use of information in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.
- (iv) **Disclosing Confidential Information if required to by law.** Each party may disclose the other's Confidential Information if required to comply with a court order or other government demand that has the force of law. Before doing so, each party must seek

the highest level of protection available and, when possible, give the other enough prior notice to provide a reasonable chance to seek a protective order.

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

## **11. Warranties.**

- a. Limited warranty.** Microsoft warrants that:

- (i) Online Services will perform in accordance with the applicable Service Level Agreement;
- (ii) Products other than Online Services will perform substantially as described in the applicable Microsoft user documentation; and

- b. Limited warranty term.** The limited warranty for:

- (i) Online Services is for the duration of Enrolled Affiliate's use of the Online Service, subject to the notice requirements in the applicable Service Level Agreement;
- (ii) Products other than Online Services is one year from the date Enrolled Affiliate first uses the Product; and

- c. Limited warranty exclusions.** This limited warranty is subject to the following limitations:

- (i) any implied warranties, guarantees or conditions not able to be disclaimed as a matter of law last for one year from the start of the limited warranty;
- (ii) the limited warranty does not cover problems caused by accident, abuse or use in a manner inconsistent with this agreement or the Product Use Rights, or resulting from events beyond Microsoft's reasonable control;
- (iii) the limited warranty does not apply to components of Products that Enrolled Affiliate is permitted to redistribute;
- (iv) the limited warranty does not apply to free, trial, pre-release, or beta products; and
- (v) the limited warranty does not apply to problems caused by the failure to meet minimum system requirements.

- d. Remedies for breach of limited warranty.** If Microsoft fails to meet any of the above limited warranties and Enrolled Affiliate notifies Microsoft within the warranty term, then Microsoft will:

- (i) for Online Services, provide the remedies identified in the Service Level Agreement for the affected Online Service;
- (ii) for Products other than Online Services, at its option either (1) return the price paid or (2) repair or replace the Product; and

These are Enrolled Affiliate's only remedies for breach of the limited warranty, unless other remedies are required to be provided under applicable law.

- e. DISCLAIMER OF OTHER WARRANTIES. OTHER THAN THIS LIMITED WARRANTY, MICROSOFT PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS. MICROSOFT DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE OR NON-INFRINGEMENT. THESE DISCLAIMERS WILL APPLY UNLESS APPLICABLE LAW DOES NOT PERMIT THEM.**

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

- a. Microsoft's agreement to protect.** Microsoft will defend Enrolled Affiliate against any claims made by an unaffiliated third party that any Product or Fix that is made available by Microsoft for a fee infringes that party's patent, copyright, or trademark or makes unlawful use of its Trade Secret. Microsoft will also pay the amount of any resulting adverse final judgment (or settlement to which Microsoft consents). This section provides Enrolled Affiliate's exclusive remedy for these claims.
- b. Limitations on defense obligation.** Microsoft's obligations will not apply to the extent that the claim or award is based on:
- (i) Customer Data, non-Microsoft software, modifications Enrolled Affiliate makes to, or any specifications or materials Enrolled Affiliate provides or makes available for, a Product or Fix;
  - (ii) Enrolled Affiliate's combination of the Product or Fix with a non-Microsoft product, data or business process; or damages based on the use of a non-Microsoft product, data or business process;
  - (iii) Enrolled Affiliate's use of either Microsoft Trademarks or the use or redistribution of a Product or Fix in violation of this agreement or any agreement incorporating its terms or;
  - (iv) Enrolled Affiliate's use of a Product or Fix after Microsoft identifies Enrolled Affiliate to discontinue that use due to a third party claim.

To the extent permitted by applicable law, Enrolled Affiliate will be responsible Microsoft for any costs or damages that result from any of the above actions.

- c. Enrolled Affiliate's agreement to protect.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft and its Affiliates against any claims made by an unaffiliated third party that:
- (i) any Customer Data or non-Microsoft software Microsoft hosts on Customer's behalf infringes the third party's patent, copyright, or trademark or makes unlawful use of its Trade Secret; or
  - (ii) Arises from violation of the Acceptable use Policy, which is described in the Product Use Rights.

Customer will be responsible for the amount of any resulting adverse final judgment (or settlement to which it consents). This Section provides Microsoft's exclusive remedy for these claims.

- d. Rights and remedies in case of possible infringement or misappropriation.**
- (i) **Microsoft's offerings.** If Microsoft reasonably believes that a Product or Fix may infringe or misappropriate a third-party's intellectual property rights, Microsoft will seek to: (1) procure for Enrolled Affiliate the right to continue to use the Product or Fix; or (2) modify or replace it with a functional equivalent to make it non-infringing and notify Enrolled Affiliate to discontinue use of the prior version, which Enrolled Affiliate must do immediately. If the foregoing options are not commercially reasonable for Microsoft, or if required by a valid judicial or government order, Microsoft may terminate Enrolled Affiliate's license or access rights in the Product or Fix. In such a case, Microsoft will provide Enrolled Affiliate with notice and refund any amounts Enrolled Affiliate has paid for those rights to the Product or Fix (or for Online Services, any amount Enrolled Affiliate has paid in advance for unused Online Services).
  - (ii) **Customer Data or use of non-Microsoft software with Online Services.** If an unaffiliated third party asserts that Customer Data or non-Microsoft software or technology used by Enrolled Affiliate the Online Services violates their intellectual property rights, Microsoft may ask Customer to remove the allegedly infringing item. If

Enrolled Affiliate fails to do so within a reasonable period of time, Microsoft may suspend or terminate the Online Service to which the Customer Data or non-Microsoft software relates.

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

### **13. Limitation of liability.**

- a. **Limitation on liability.** To the extent permitted by applicable law, the liability of Microsoft and Enrolled Affiliate, their respective Affiliates and contractors arising under this agreement is limited to direct damages up to (1) for Products other than Online Services, the amount Enrolled Affiliate was required to pay for the Product giving rise to that liability and (2) for Online Services, the amount Enrolled Affiliate paid for the Online Service giving rise to that liability during the prior 12 months. In the case of Products provided free of charge, or code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to U.S. \$5,000. These limitations apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory. However, these monetary limitations will not apply to:
  - (i) Microsoft's and Enrolled Affiliate's obligations under the section titled "Defense of infringement, misappropriation, and third party claims";
  - (ii) liability for damages caused by either party's gross negligence or willful misconduct, or that of its employees or its agents, and awarded by a court of final adjudication (provided that, in jurisdictions that do not recognize a legal distinction between "gross negligence" and "negligence," "gross negligence" as used in this subsection shall mean "recklessness");
  - (iii) liabilities arising out of any breach by either party of its obligations under the section entitled "Confidentiality", except that Microsoft's liability arising out of or in relation to Customer Data shall in all cases be limited to the amount Enrolled Affiliate paid for the Online Service giving rise to that liability during the prior 12 months;
  - (iv) liability for personal injury or death caused by either party's negligence, or that of its employees or agents, or for fraudulent misrepresentation; and
  - (v) violation by either party of the other party's intellectual property rights.
- b. **EXCLUSION OF CERTAIN DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES, OR CONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATIONS (EXCEPT TO THE EXTENT THAT SUCH VIOLATION RELATES TO CUSTOMER DATA), THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR THE PARTIES' RESPECTIVE OBLIGATIONS IN THE SECTION TITLED "DEFENSE OF INFRINGEMENT, MISAPPROPRIATION, AND THIRD PARTY CLAIMS."**

- c. **Affiliates and Contractors.** Neither Microsoft nor Enrolled Affiliate shall bring any action against the other's Affiliates or contractors in respect of any matter disclaimed on their behalf in this agreement.

#### 14. **Verifying compliance.**

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to the Products it and its Affiliates use or distribute. Microsoft has the right, to the extent permitted by applicable law, to verify compliance with the license terms for Products, at Microsoft's expense.
- b. **Verification process and limitations.** Microsoft will provide customer at least 30 days' notice of its intent to verify compliance. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Verification will take place during normal business hours and in a manner that does not interfere unreasonably with Customer's operations. Customer must promptly provide the independent auditor with any information it reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of licenses for Products Customer hosts, sublicenses, or distributes to third parties. As an alternative, Microsoft may require Customer to complete Microsoft's self-audit process relating to the Products Customer and any of its Affiliates use or distribute. Such information will be used solely for purposes of determining compliance.
- c. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use, Customer must within 30 days order sufficient licenses to cover its use. If there is no unlicensed use, Microsoft will not undertake another verification of the same Customer for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this agreement or to protect its intellectual property by any other means permitted by law.

#### 15. **Miscellaneous.**

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

**Copies should be sent to:**

Microsoft Corporation  
Legal and Corporate Affairs  
Volume Licensing Group  
One Microsoft Way  
Redmond, WA 98052  
USA

Via Facsimile: (425) 936-7329

Microsoft may provide information about upcoming Enrollment deadlines and Online Services in electronic form. Such information may be provided by email to contacts provided by Enrolled Affiliate under an Enrollment, or through a web site Microsoft identifies. Notice by email is given as of the transmission date.

- b. **Assignment.** Either party may assign this agreement to an Affiliate only. Assignment will not relieve the assigning party of its obligations under the assigned agreement. If either party assigns this agreement, it must notify the other party of the assignment in writing.

- c. **Severability.** If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the rest of the document will remain in effect and this agreement will be amended to give effect to the eliminated provision to the maximum extent possible. Subcontractors. Microsoft may use contractors to perform Services and support Online Services. Microsoft will be responsible for their performance subject to the terms of this agreement.
- d. **Waiver.** A waiver of any breach of this agreement is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party.
- e. **Applicable law; Dispute resolution.** The terms of this agreement will be governed by the laws of Enrolled Affiliate's state, without giving effect to its conflict of laws. Disputes relating to this agreement will be subject to applicable dispute resolution laws of Enrolled Affiliate's state.
- f. **This agreement is not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft software.
- g. **Entire agreement.** This agreement, the Product List, all Enrollments under this agreement, and the Product Use Rights constitute the entire agreement concerning the subject matter and supersede any prior or contemporaneous communications. In the case of a conflict between any documents referenced in this agreement that is not expressly resolved in the documents, their terms will control in the following order: (1) these terms and conditions and the accompanying signature form; (2) an Enrollment; (3) the Product List; (4) the Product Use Rights; (5) any other documents; and (6) all orders submitted under this agreement.
- h. **Survival.** Provisions regarding ownership and license rights, fees, Product Use Rights, restrictions on use, evidence of perpetual licenses, transfer of licenses, warranties, defense of infringement and misappropriation claims, Microsoft's and Customer's obligations to protect each other, limitations of liability, confidentiality, compliance verification, obligations on termination or expiration and the other provisions in this section entitled "Miscellaneous" will survive termination or expiration of this agreement and of any agreement in which they are incorporated.
- i. **No transfer of ownership.** Microsoft does not transfer any ownership rights in any licensed Product.
- j. **Free Products.** It is Microsoft's intent that the terms of this agreement and the Product Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- k. **Amending the agreement.** This agreement (except the Product List and the Product Use Rights) can be changed only by an amendment signed by both parties.
- l. **Resellers and other third parties cannot bind Microsoft.** Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- m. **Privacy and security.** Microsoft and Enrolled Affiliate will each comply with all applicable privacy and data protection laws and regulations (including applicable security breach notification law). However, Microsoft is not responsible for compliance with any laws applicable to Enrolled Affiliate or Enrolled Affiliate's industry that are not also generally applicable to information technology services providers. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this agreement. Enrolled Affiliate may choose to provide personal information to Microsoft on behalf of third parties (including Enrolled Affiliate's contacts, resellers, distributors, administrators, and employees) as part of this agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft. The personal information Enrolled Affiliate provides in connection with this agreement will be processed according to the privacy statement available at <https://www.microsoft.com/licensing/servicecenter> (see footer), except

that Product-specific privacy statements are in the Product use rights. Personal data collected through Products or Services may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities. By using the Products or Services, Customer consents to the foregoing. Microsoft abides by the EU Safe Harbor and the Swiss Safe Harbor frameworks as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of data from the European Union, the European Economic Area, and Switzerland. For Online Services, additional privacy and security details are in the Product use rights.

- n. Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the online services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- o. Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- p. Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this agreement and the Product Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this agreement for unlicensed use.
- q. U.S. export jurisdiction.** Products and Fixes are subject to U.S. export jurisdiction. Customer will comply with all U.S. Export Administration Regulations and International Traffic in Arms Regulation requirements as well as all end-user, end-use, and destination restrictions issued by the U.S. and other governments applicable to this agreement. For additional information, see <http://www.microsoft.com/exporting>.

# Program Signature Form

MBA/MBSA number

Agreement number 01E73321

000-jendunn-S-715

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Agreement	X20-03196
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
EA Agreement Amendment	CTM (New)
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* Virginia Information Technologies Agency ("VITA")
Signature*
Printed First and Last Name* Gregory H Scearce
Printed Title* Strategic Sourcing Specialist
Signature Date* 12/17/2012
Tax ID 54-1074144

\* indicates required field

Microsoft Affiliate	
Microsoft Licensing, GP	
Signature _____	 Microsoft Licensing, GP  <b>DEC 18 2012</b> <i>CS</i> Courtney Savage Duly Authorized on behalf of Microsoft Licensing, GP
Printed First and Last Name	
Printed Title	
Signature Date (date Microsoft Affiliate countersigns)	
Effective Date (may be different than Microsoft's signature date)	<i>12/19/2012</i>

Optional 2<sup>nd</sup> Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title*
Signature Date*

\* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title*
Signature Date*

\* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Licensing, GP  
 Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, Nevada 89511-1137  
 USA

Prepared By: Name of Preparer  
Email of Preparer



## Enterprise Agreement (Indirect) Amendment ID CTM

000-jendunn-S-715

For the purposes of this Amendment, "Entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Notwithstanding anything to the contrary or in addition to any terms in the Agreement, the Agreement is amended as follows:

1. The Enterprise Agreement Section 1. Definitions for "affiliate" a. with regards to Customer, is hereby deleted in its entirety and replaced with the following:

"Affiliate" means

- a. with regard to Customer,
  - (i) any Commonwealth of Virginia public body, as defined in §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia agency, department, office, instrumentality, division, unit or other entity of the state or local government or institutions of higher learning, except those explicitly exempted by the Code of Virginia that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
  - (ii) any county, , city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
  - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and

2. Notwithstanding anything to the contrary, Section 2. a. Establishing price levels of the Enterprise Agreement is hereby amended and replaced in its entirety as follows:

The price levels provided are in accordance with the request of the State of Virginia, and allows for a discount pursuant to the aggregate quantity of 108,295 qualified desktops (and 161,361 qualified users) currently participating under the Virginia Information Technologies Agency ("VITA") Enterprise Agreement.

- a. **Establishing price levels.** Each product is assigned to one of the following pools: applications, systems or servers. An enrolled affiliate's prices are based on the "price level" for which it qualifies in each individual product pool. *Price levels are established for the term of this agreement, for enterprise products at Level D less 7.5% for Servers and D less 6% for Applications and Systems.*

*The additional products shall be at level D for all enrollments unless otherwise specified in an amendment to a specific enrollment.*

**Renewal price levels.** Generally, price levels for pools from which an enterprise product has been ordered will be *Level D less 7.5% for Servers, and D less 6% for Applications and Systems for Enterprise products and at the initial order at the time of enrollment.*

*Actual pricing and payment terms will be determined by agreement between each enrolled affiliate and its chosen reseller.*

3. The Enterprise Agreement page 6, section 7. Term and termination, g. *Program updates*, is hereby deleted in its entirety and replaced with the following:

- g. Program updates.** Microsoft may make a change to this program that will make it necessary for Customer and its Enrolled Affiliates to (i) modify existing agreement and enrollment, or (ii) enter into new agreements and Enrollments.

4. The Enterprise Agreement page 8, section 10. Confidentiality is hereby deleted in its entirety and replaced with the following:

*The terms and conditions of this agreement may be posted on the Commonwealth of Virginia's website. To the extent permitted by applicable law, neither party will disclose the substance of any discussions that led this agreement, to any third party other than Affiliates or agents, or to designated or prospective resellers who: (1) have a need to know such information in order to assist in carrying out this agreement; and (2) have been instructed that all such information is to be handled in strict confidence.*

*For the avoidance doubt, the parties also acknowledge that this Confidentiality provision recognizes that when there is a business need to do so, Microsoft and Customer may need to share/exchange their respective Confidential Information with each other to develop a more meaningful business relationship. This section provides Microsoft and Customer with a well-balanced, commercially reasonable and comprehensive set of confidentiality terms that enable both parties to share/exchange a wide range of Confidential Information with each other knowing with confidence that significant confidentiality protections are in place. The confidentiality terms denoted below do not govern Microsoft's handling of Customer Data. In all instances under this Agreement, Microsoft's handling of Customer Data shall be governed as described under various other provisions of this Agreement and by Microsoft's data security policy.*

- a. What is included.** "Confidential Information" is non-public information, know-how and Trade Secrets in any form that:

- (i) are designated as "confidential";
- (ii) a reasonable person knows or reasonably should understand to be confidential; or
- (iii) include non-public information regarding either party's products or customers, marketing and promotions, or the negotiated terms of Microsoft agreements.

- b. What is not included.** The following types of information, however marked, are not Confidential Information. Information that:

- (i) is, or becomes, publicly available without a breach of this agreement;
- (ii) was lawfully known to the receiver of the information without an obligation to keep it confidential;
- (iii) is received from another source who can disclose it lawfully and without an obligation to keep it confidential;
- (iv) is independently developed; or
- (v) is a comment or suggestion one party volunteers about the other's business, products or services.

- c. Treatment of Confidential Information.**

- (i) **In general.** Subject to the other terms of this agreement, each party agrees:
  - it will not disclose the other's Confidential Information to third parties; and
  - it will use and disclose the other's Confidential Information only for purposes of the parties' business relationship with each other.
- (ii) **Security precautions.** Subject to the other terms of this agreement, each party agrees:
  - to take reasonable steps to protect the other's Confidential Information -- these steps must be at least as protective as those the party takes to protect its own Confidential Information;

- to notify the other promptly upon discovery of any unauthorized use or disclosure of Confidential Information; and
- to cooperate with the other to help regain control of the Confidential Information and prevent further unauthorized use or disclosure of it.

**(iii) Sharing Confidential Information with Affiliates and representatives.**

- A "Representative" is an employee, contractor, advisor, or consultant of one of the parties or of one of the parties' Affiliates.
- Each party may disclose the other's confidential information to its Representatives (who may then disclose that Confidential Information to other of that party's Representatives) only if those Representatives have a need to know about it for purposes of the parties' business relationship with each other. Before doing so, each party must:
  - 1) ensure that Affiliates and Representatives are required to protect the Confidential Information on terms consistent with this agreement; and
  - 2) Accept responsibility for each Representative's use of Confidential Information.
- Neither party is required to restrict work assignments of Representatives who have had access to Confidential Information. Neither party can control the incoming information the other will disclose to it in the course of working together, or what that party's Representatives will remember, even without notes or other aids. Each party agrees that use of information in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

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

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

5. The Enterprise Agreement, section 12. **Defense of infringement and misappropriation claims.** *d. Enrolled Affiliate's Responsibility.* and *e. Obligations of protected party* are hereby deleted in its entirety and replaced with the following:

**d. Enrolled Affiliate's Responsibility.** *Enrolled Affiliate will be responsible for any of its costs or damages, arising from any claims made by an unaffiliated third party that:*

- any Customer Data or non-Microsoft software Microsoft hosts on Enrolled Affiliate's behalf infringes the third party's patent, copyright, or trademark or makes intentional unlawful use of its Trade Secret; or
- arise from Enrolled Affiliate's or its end user's violation of the Product Use Rights or these Additional Use Right and Restrictions.

Enrolled Affiliate must pay the amount of any resulting adverse final judgment (or settlement to which Enrolled Affiliate consents).

**e. Obligations of protected party.** Enrolled Affiliate must notify Microsoft promptly in writing of a claim subject to the subsection titled "Microsoft's agreement to protect" and Microsoft must notify Enrolled Affiliate promptly in writing of a claim subject to the subsection titled "Enrolled Affiliate's Responsibility." To the extent permitted by applicable law, where Enrolled Affiliate invokes its right to protection it must (1) give Microsoft sole control over the defense or settlement; and (2) provide reasonable assistance in defending the claim. Microsoft will reimburse Enrolled Affiliate for reasonable out of pocket expenses that it incurs in providing assistance.

*To the extent permitted by applicable law, where Enrolled Affiliate invokes its right to protection it must provide reasonable assistance in defending the claim. Microsoft will reimburse Enrolled Affiliate for reasonable out of pocket expenses that it incurs in providing assistance. All settlements on behalf of the Commonwealth must be approved by the Office of the Attorney General.*

6. The Enterprise Agreement, section **14. Verifying compliance**, *b. Verification process and limitations* is hereby deleted in its entirety and replaced with the following:

**Verification process and limitations.** To verify compliance, Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 30 days notice, during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations. Enrolled Affiliate must promptly provide the independent auditor with any License information it reasonably requests in furtherance of the verification, including access to systems running the Products, *as authorized by the Commonwealth of Virginia's security and access standards and policies*, and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. As an alternative, Microsoft can require Enrolled Affiliate to complete Microsoft's self-audit questionnaire relating to the Products Enrolled Affiliate and any of Affiliates use or distribute, but reserve the right to use a verification process as set out above.

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

## Supplemental Contact Information Form State and Local

This form can be used in combination with Agreement and Enrollment/Registration. However, a separate form must be submitted for each Enrollment/Registration, when more than one is submitted on a signature form. For the purposes of this form, "Entity" can mean the signing Entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a Volume Licensing program agreement. Primary and Notices contacts in this form will not apply to Enrollments or Registrations.

This form applies to:  Agreement  
 Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

### **Contact information.**

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (\*) indicate required fields; if the Entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

#### **1. Additional notices contact.**

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

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

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

#### **2. Software Assurance manager.**

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

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

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

### 3. **Subscriptions manager.**

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

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

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

### 4. **Online Services manager.**

This contact will be provided online permissions to manage the Online Services ordered under the Enrollment or Registration.

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

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

### 5. **Customer Support Manager (CSM):**

This person is designated as the Customer Support Manager (CSM) for support-related activities.

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

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

### 6. **Primary contact information:**

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of Entity\* Virginia Information Technologies Agency ("VITA")  
Contact name\*: First Gregory Last Scearce

Contact email\* gregory.scearce@vita.virginia.gov  
Street address\* 11751 Meadoville Lane  
City\* Chester State\* VA Postal code\* 23836  
Country\*: USA  
Phone\* (804) 371-5919 Fax

**7. Notices contact and online administrator information:**

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

Same as primary contact

Name of Entity\*

Contact name\*: First Last

Contact email\*

Street address\*

City\* State\* Postal code\*

Country\*:

Phone\* Fax

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

# Enterprise Agreement

## Amendment ID CTM

000-jendunn-S-415

This amendment is entered into between the customer and Microsoft affiliate signing, as of the effective date identified below. All terms used but not defined will have the same meanings as in the Microsoft Enterprise Agreement identified above "the agreement." The following terms and conditions amend the terms and conditions of the agreement identified above with respect to the customer identified below and its enrolled affiliates. *This amendment provides changes in accordance with the requests of the State of Virginia and allows for a discount pursuant to the 122,964 desks currently participating under the Virginia Information Technologies Agency ("VITA") Enterprise Agreement number 01E60387.*

1. Notwithstanding anything to the contrary, Section 2. A. of the Enterprise Agreement is hereby amended and replaced in its entirety as follows:

- a. Establishing price levels.** Each product is assigned to one of the following pools: applications, systems or servers. An enrolled affiliate's prices are based on the "price level" for which it qualifies in each individual product pool. *Price levels are established for the term of this agreement, for enterprise products at Level D -7.5% for Servers and D -6% for Applications and Systems.*

*The additional products shall be at level D for all enrollments unless otherwise specified in an amendment to a specific enrollment.*

*True-up pricing for enterprise products shall be priced based on the same price level at Level D - 7.5% for Servers and D -6% for Applications and Systems*

**Renewal price levels.** Generally, price levels for pools from which an enterprise product has been ordered will be *level Level D -7.5% for Servers and D -6% for Applications and Systems for Enterprise products and at the initial order at the time of enrollment.*

2. Section 11(a) is hereby amended and restated, as follows:

**Term.** Provided that it has been executed by both you and us, this agreement will remain in effect for 144 full calendar months following the effective date unless it is terminated by either party as described below. Each enrollment will have the term provided in that enrollment.

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

# Enterprise Signature Form

# State and Local

Master Agreement number or Enrollment number\*

01E60387
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SGN-	000-jendunn-S-415
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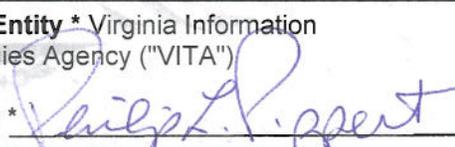
*Microsoft to complete if applicable*

**\*Note:** Enter the applicable active numbers associated with the below documents. Microsoft requires the associated active number be indicated here, or listed below as new.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Document Number or Code
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
Amendment	CTM (New)
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents,, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	Microsoft Affiliate
<b>Name of Entity</b> * Virginia Information Technologies Agency ("VITA")	<b>Microsoft Licensing, GP</b>
<b>Signature</b> * 	<b>Signature</b>
<b>Printed Name</b> * Philip L. Pippert	<b>Printed Name</b>
<b>Printed Title</b> * Assoc. Director, SCM	<b>Printed Title</b>
<b>Signature Date</b> * 9/9/2010	<b>Signature Date</b> <small>(date Microsoft Affiliate countersigns)</small>
<b>Tax ID</b>	<b>Effective Date</b> <small>(may be different than Microsoft's signature date)</small>

\* indicates required field

**Optional 2<sup>nd</sup> Customer signature or Outsourcer Signature (if applicable)**

Customer	Outsourcer
<b>Name of Entity *</b>	<b>Name of Entity *</b>
<b>Signature *</b> _____	<b>Signature *</b> _____
<b>Printed Name *</b>	<b>Printed Name *</b>
<b>Printed Title *</b>	<b>Printed Title *</b>
<b>Signature Date *</b>	<b>Signature Date *</b>

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

**Microsoft Licensing, GP**  
 Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, Nevada 89511-1137  
 USA

<b>Prepared By:</b> Name of Preparer Email of Preparer
---

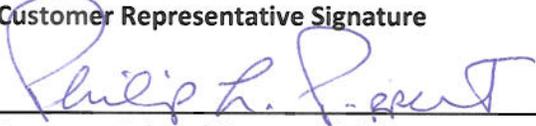


## Electronic Document Submission Authorization

By signing below, you agree that the accompanying contract documentation is authorized to be submitted to Microsoft Licensing, G.P. via electronic means.

Additionally, you acknowledge and consent that:

- The electronically submitted version of the contract document(s) is a legally binding arrangement, and that no other copies of the agreement will be processed.
- Upon execution by Microsoft, the contract documentation will be returned to you with an original Microsoft signature on your non-original signature document.

<b>Customer Name</b> Virginia Information Technologies Agency ("VITA")
<b>Customer Representative Signature</b> 
<b>Customer Printed Name and Title</b> Philip L. Pippert, Assoc Director, SCM
<b>Date</b> 9/9/2010

# Microsoft Enterprise Agreement – State and Local Amendment

Agreement number  
*Microsoft to complete*

01E60387

Amendment ID

CTM-

000-jendunn-S-124

ID Number  
*Microsoft to complete*

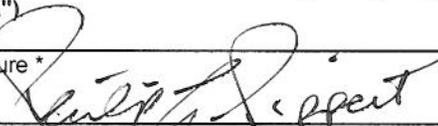
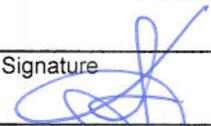
This amendment is entered into between the Customer and Microsoft affiliate signing, as of the effective date identified below. All terms used but not defined will have the same meanings as in the Microsoft Enterprise Agreement identified above "the agreement." The following terms and conditions amend the terms and conditions of the agreement identified above with respect to the customer identified below and its enrolled affiliates.

1. Section 11(a) is hereby amended and restated, as follows:

**Term.** Provided that it has been executed by both you and us, this agreement will remain in effect for **108 full calendar months** following the effective date unless it is terminated by either party as described below. Each enrollment will have the term provided in that enrollment.

<Remainder of page intentionally left blank>

Except for changes made by this amendment, all terms of this agreement remain unchanged. By signing below, the parties agree to be bound by the terms of this amendment.

<b>Customer</b>	<b>Contracting Microsoft Affiliate</b>
Name of Entity * <b>The Virginia Information Technologies Agency ("VITA")</b>	<b>Microsoft Licensing, GP</b>
Signature * 	Signature 
Printed Name * <b>PHILIP L. PIPPERT</b>	Printed Name <b>Joylene Hill</b>
Printed Title * <b>ASSOC. DIRECTOR, SEM</b>	Printed Title <b>Contract Administrator</b>
Signature Date * <b>3/31/08</b>	Signature Date (date Microsoft affiliate countersigns) <b>APR 07 2008</b>
<i>* indicates required field</i>	Effective Date (may be different than our signature date) <b>4/7/08</b>

Please sign two copies of this amendment and send them to your reseller or software advisor. Your reseller or advisor must submit them to the following address. When the amendment is fully signed, you will receive a confirming copy.

**Microsoft Licensing, GP**  
 Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, Nevada USA 89511-1137

Prepared By: Jennifer Kelleher

# Microsoft Enterprise Agreement – State and Local Amendment

Agreement number  
Microsoft to complete

01E60387

Amendment ID

CTX-

000-dmills-s-0657

ID Number  
Microsoft to complete

This amendment is entered into between the Customer and Microsoft affiliate signing, as of the effective date identified below, *along with the acknowledgement and acceptance of transfer by the Outsourcer indicated below*. All terms used but not defined will have the same meanings as in the Microsoft Enterprise Agreement identified above "the agreement." The following terms and conditions amend the terms and conditions of the agreement identified above with respect to the customer identified below and its enrolled affiliates.

1. The parties acknowledge and agree that name of The Commonwealth of Virginia, Department of Information Technology, which executed this amendment, has been changed to *The Virginia Information Technologies Agency ("VITA")*.
2. Upon the parties execution of this amendment, the following enrollments shall terminate retroactively effective as of 12:00 a.m. Midnight, February 28, 2007 (the "Termination Date"):

Enrollment #	Enrolled Affiliate	Enrollment Effective Date	Perpetual Licenses Issued
3477197	Virginia Dept. of Human Resource Management	June 2, 2005	No
4417203	VITA-SCB and DMBE	June 30, 2006	No
8235378	VITA - Dept. of Corrections	July 1, 2005	No
2745722	VDOT	June 29, 2004	Yes
3345197	VITA-Dept. of Transportation	July 1, 2005	No
2537733	Department of Motor Vehicles	June 29, 2006	No
4905997	Vita-Dept. of Motor Vehicles	July 1, 2005	No
7616497	Vita-Dept. of Social Services	July 1, 2005	No
4907832	VA Dept of Health Professions	December 1, 2005	No
7845388	Vita - Catawaba Hospital	August 1, 2005	No
4245898	Vita - Commonwealth Center for Children & Adolescents	August 1, 2005	No
9215688	Vita - Western state Hospital	August 1, 2005	No
2635077	Southern Virginia Mental Health Institute	June 3, 2003	Yes
9055022	Virginia Dept. of Historic Resources	April 27, 2006	No
4135932	Virginia Department of Emergency Management	June 8, 2006	No
5353123	Virginia Division of Forensic Science	May 1, 2004	Yes
3487064	Virginia State Police	October 28, 2004	Yes
6125178	VITA - Virginia Information Technologies Agency	July 1, 2005	No

In the table above: (1) an entry of "Yes" in the column marked "Perpetual Licenses Issued" indicates that all annual installment payments pursuant to the applicable enrollment have been paid, and for such enrollments the enrolled affiliate will have perpetual licenses for every product ordered pursuant to each such enrollment; and (2) an entry of "No" in the "Perpetual Licenses Issued" column indicates that the enrollment is being terminated prior to one or more installment payments, and, for such enrollments and notwithstanding anything to the contrary, the enrolled affiliate will not receive any perpetual licenses.

We will terminate and credit all installment payments billed (or scheduled to be billed) after the Termination Date, but will not credit any payments billed on or before such Termination Date.

The parties acknowledge and agree that all prior payments made pursuant to the enrollments above, including those for which perpetual licenses are not issued, have been taken into account in pricing replacement licenses to your Outsourcer (Northrop Grumman Information Technology, Inc.), pursuant to a separate Outsourcer Enterprise Agreement that it is executing with us on behalf of

each of the above-cited enrolled affiliates. Customer therefore agrees that, except as provided above, no further credit or refund shall be issued pursuant to the above-cited enrollments.

Customer represents that it has the authority to execute such termination on behalf of all applicable Enrolled Affiliates.

Customer acknowledges that Underlying Licenses (as defined below) purchased under the prior Enterprise Enrollment and Select Enrollment numbers shown in the table in part 1 of Attachment A were taken into account when pricing Software Assurance to your Outsourcer.

Notwithstanding the effective date shown below, in the event that the parties execute this amendment prior to our receipt the fully-executed Outsourcer ~~EE~~, this amendment shall not take effect until such receipt. *EA PUP*

Except with respect to any online services shown in such tables (for which perpetual licenses cannot be issued), the tables in part 2 of Attachment A show the perpetual licenses (the "Underlying Perpetual Licenses") that were used as Underlying Licenses with respect to the Outsourcer EA.

- The version of Underlying Perpetual Licenses shown in tables marked "Prior Software Assurance and Online Services Purchases" shall be deemed current as of the earlier of (i) the expiration date shown in such tables, or (ii) March 1, 2007; and
- The version of Underlying Perpetual Licenses shown in tables marked "Prior License-only Purchases" shall be deemed current as of the approximate purchase date shown in such tables.

Upon the parties' execution of this amendment, all Underlying Perpetual Licenses shall transfer to the Outsourcer, and such licenses will thereafter be subject to the terms and conditions of the Outsourcer EE. No continuing Software Assurance rights shall be transferred with such Underlying Perpetual Licenses. In the event that any Underlying Perpetual License was acquired through Software Assurance separately from an earlier perpetual license for which that Software Assurance was ordered, such earlier perpetual license shall also be deemed to transfer to the Outsourcer.

Customer represents that it will not transfer any upgrade license for a desktop operating system separately from the underlying operating system license or from the computer system on which it was first installed. As an exception to the preceding sentence, you may transfer your desktop operating system upgrade licenses to the Outsourcer, even if you retain ownership of the computer system to which such upgrade licenses apply, so long as both (1) Outsourcer agrees (as a condition of its acceptance of such transfer) that each such upgrade license it receives from you shall only be run upon the single computer system you own (and upon which it was first installed), except as reassignment of Software Assurance coverage is allowed as provided below; and (2) you agree that, upon such reassignment, you will remove the operating system software that was installed on the original computer system, pursuant to such upgrade, from such original computer system.

Outsourcer may reassign Software Assurance coverage ordered for an Underlying License for a desktop operating system product installed on one computer to a replacement computer as long as:

- (i) that replacement computer is licensed to run one of the qualifying operating systems identified in the Product List for replacement computers, and
- (ii) the enrolled affiliate removes from the original computer any desktop operating system upgrades that were installed pursuant to upgrade licenses and/or Software Assurance under its enrollment.

Outsourcer may not otherwise separate Software Assurance coverage or any related upgrade right from the Underlying License for which it is ordered.

Except as otherwise provided by this amendment, this transfer is made according to all other terms of the Microsoft Enterprise Agreement identified above.

Customer represents that it have the authority to execute such transfer on behalf of all applicable Enrolled Affiliates.

Outsourcer, by signing below, represents and warrants that it has executed the above-mentioned Outsourcer EA, and agrees that the terms and conditions of the Outsourcer EA (including but not limited to the Product Use Rights) shall apply to all Underlying Perpetual Licenses it receives pursuant to this transfer.

Except for changes made by this amendment, all terms of this agreement remain unchanged. By signing below, the parties agree to be bound by the terms of this amendment.

<b>Customer</b>	<b>Contracting Microsoft Affiliate</b>
Name of Entity *	
The Virginia Information Technologies Agency ("VITA")	Microsoft Licensing, GP
Signature *	Signature
Printed Name *	Printed Name
PHILIP L. PIPPERT	Joylene Hill
Printed Title *	Printed Title
ASSOC. DIRECTOR, SEM	Contract Administrator
Signature Date *	Signature Date (date Microsoft affiliate countersigns)
JUNE 21 2007	JUN 14 2007
	Effective Date (may be different than our signature date)

\* indicates required field

<b>Outsourcer</b>
Name of Entity *
Northrop Grumman Information Technology, Inc.
Signature *
Printed Name *
Julia Carrier Donley
Printed Title *
Director of Contracts
Signature Date *
20 Jun 07

Please sign THREE copies of this amendment and send them to your reseller or software advisor. Your reseller or advisor must submit them to the following address. When the amendment is fully signed, you will receive a confirming copy.

**Microsoft Licensing, GP**  
Dept. 551, Volume Licensing  
6100 Neil Road, Suite 210  
Reno, Nevada USA 89511-1137

Prepared By: David Mills

## Attachment A – Licenses transferred to Northrop Grumman

Part 1: Table of Virtual Enrollment Numbers and Customer Affiliates included in each Enterprise

Enterprise Name	Entities Included in each Enterprise	Underlying Licenses come from from Enrollment:	
		EA	Select
Northrop Grumman IT on behalf of Secretary of Administration 1 (DHR)	Department of Human Resources Management	3477197	8186732
	Department of Employment Dispute Resolution	N/A	N/A
	Council on Human Rights	N/A	N/A
	Department of Veteran's Affairs	N/A	N/A
Northrop Grumman IT on behalf of Secretary of Administration 2	Compensation Board	4417203	N/A
	Department of Minority Business Enterprise	4417203	N/A
Northrop Grumman IT on behalf of Secretary of Administration Addl SOA Agencies	Board of Trustees, Virginia Veterans Care Center	N/A	N/A
	Board of Trustees, Virginia War Memorial	N/A	N/A
	Charitable Gaming Commission	N/A	N/A
	Commission on Local Government	N/A	N/A
	Commonwealth Competition Council	N/A	N/A
	State Board of Elections	N/A	N/A
	Virginia Public Broadcasting Board	N/A	N/A
Northrop Grumman IT on behalf of Dept of Agriculture and Consumer Affairs	Department of Agriculture and Consumer Affairs	N/A	7377892
Northrop Grumman IT on behalf of Dept of Alcoholic Beverage Control	Department of Alcoholic Beverage Control	N/A	4105541
Northrop Grumman IT on behalf of Dept for the Blind and Vision Impaired	Department for the Blind and Vision Impaired	N/A	2916772
Northrop Grumman IT on behalf of Secretary of Commerce & Trade 1	Department of Labor and Industry	N/A	7686392
	Tobacco Commission	N/A	N/A
Northrop Grumman IT on behalf of Secretary of Commerce & Trade 2	Department of Housing and Community Development	N/A	4895072
	Department of Business Assistance	N/A	7375812
	Virginia Racing Commission	N/A	N/A
Northrop Grumman IT on behalf of Secretary of Commerce & Trade 3	Department of Minority Business Enterprise	N/A	N/A
	Virginia Resource Authority	N/A	N/A
	Milk Commission	N/A	N/A
	Board of Accountancy	N/A	N/A
	Virginia Tourism Authority	N/A	N/A
	Virginia Office for Protection and Advocacy	N/A	N/A
Northrop Grumman IT on behalf of Secretary of Commonwealth	Secretary of the Commonwealth	N/A	N/A
Northrop Grumman IT on behalf of Dept. of Conservation & Recreation	Department of Conservation and Recreation	N/A	5374241
Northrop Grumman IT on behalf of Dept. of Corrections	Department of Corrections	8235378	8585342
	Parole Board	N/A	N/A
Northrop Grumman IT on behalf of Dept. of Criminal Justice Services	Department of Criminal Justice Services	N/A	9165153
Northrop Grumman IT on behalf of Dept. of Mines Minerals & Energy	Department of Mines, Minerals, and Energy	N/A	6664741
Northrop Grumman IT on behalf of Dept. of Transportation	Department of Transportation	2745722	2645942
		3345197	N/A
Northrop Grumman IT on behalf of Dept. of Veterans Services	Department of Veterans Services	N/A	N/A
Northrop Grumman IT on behalf of Dept. of Motor Vehicles (Counters)	Department of Motor Vehicles (Customer Service Counters only)	2537733	N/A
Northrop Grumman IT on behalf of Dept. of Motor Vehicles (HQ)	Department of Motor Vehicles (Headquarters)	4905997	7537807
Northrop Grumman IT on behalf of Dept. of Social Services	Department of Social Services	7616497	4335351
Northrop Grumman IT on behalf of VA Economic Development Partnership	Virginia Economic Development Partnership	N/A	5915612
Northrop Grumman IT on behalf of VA Employment Commission	Virginia Employment Commission	N/A	4824641
Northrop Grumman IT on behalf of Dept. of Environmental Quality	Department of Environmental Quality	N/A	8667622
Northrop Grumman IT on behalf of Secretary of Finance 1	Department of the Treasury	N/A	5534719
	Department of Taxation	N/A	5666212
Northrop Grumman IT on behalf of Secretary of Finance 2	Department Accounts & State Internal Auditor	N/A	5705202
	Department of Planning and Budget	N/A	N/A

## Attachment A – Licenses transferred to Northrop Grumman

Part 1: Table of Virtual Enrollment Numbers and Customer Affiliates included in each Enterprise (Continued)

Enterprise Name	Entities included in each Enterprise	Underlying Licenses come from from Enrollment:	
		EA	Select
Northrop Grumman IT on behalf of Dept. of Forestry	Department of Forestry	N/A	7446851
Northrop Grumman IT on behalf of Dept. of Game and Inland Fisheries	Department of Game and Inland Fisheries	N/A	3026832
Northrop Grumman IT on behalf of Dept. of General Services	Department of General Services	N/A	9924822
Northrop Grumman IT on behalf of Dept. of Health	Department of Health	N/A	8455421
Northrop Grumman IT on behalf of Dept. of Health Professions	Department of Health Professions	4907832	N/A
Northrop Grumman IT on behalf of Secretary of Health and Human Resources 1	Department of Mental Health, Mental Retardation, and SAS	N/A	2665742
	Catawaba Hospital	7845388	N/A
	Commonwealth Center for Children & Adolescents	4245898	N/A
	Western State Hospital	9215688	N/A
	Central State Hospital	N/A	4974241
	Eastern State Hospital	N/A	5544541
	Southwestern VA Training Center	N/A	3674641
	Northern VA Mental Health Institute	N/A	3006451
	Northern VA Training Center	N/A	3365242
	Central Va Training Center	N/A	3195052
	Southside VA Training Center	N/A	2696942
	Southern VA Mental Health Institute	2635077	7065312
	South Eastern Va Training Center	N/A	4225512
	Piedmont Geriatric Hospital	N/A	8116732
Northrop Grumman IT on behalf of Secretary of Health and Human Resources 2	Department for the Aging	N/A	N/A
	Board of Trustees of the Virginia Tobacco Settlement Foundation	N/A	9114188
	Virginia Board for People With Disabilities	N/A	N/A
	Comprehensive Services for At Risk Youth and Families	N/A	N/A
	Department for the Deaf and Hard-of-Hearing	N/A	N/A
Northrop Grumman IT on behalf of Dept. of Juvenile Justice	Department of Juvenile Justice	N/A	3434441
Northrop Grumman IT on behalf of Dept. of Medical Assistance Services	Department of Medical Assistance Services	N/A	3274102
Northrop Grumman IT on behalf of Secretary of Natural Resources	Marine Resources Commission	N/A	N/A
	Chesapeake Bay Local Assistance Department	N/A	N/A
	Chippokes Plantation Farm Foundation	N/A	N/A
	Department of Historic Resources	9055022	N/A
	Council on Indians	N/A	N/A
Northrop Grumman IT on behalf of Dept. of Professional and Occupational Regulation	Department of Professional and Occupational Regulation	N/A	8793571
Northrop Grumman IT on behalf of Dept. of Public Safety 1	Department of Emergency Services	4135932	5854053
	Department of Fire Programs	N/A	N/A
	Commonwealth's Attorneys' Services Council	N/A	N/A
Northrop Grumman IT on behalf of Dept. of Public Safety 2	Department of Military Affairs	N/A	N/A
	Department of Forensic Science	5353123	6208712
Northrop Grumman IT on behalf of Dept. of Rehabilitation Services	Department of Rehabilitative Services	N/A	5396912
Northrop Grumman IT on behalf of Secretary of Transportation 1	Virginia Port Authority	N/A	N/A
	Department of Rail and Public Transportation	N/A	4655812
	Commonwealth Transportation Board	N/A	N/A
	Department of Aviation	N/A	4055051
	Motor Vehicle Dealer Board	N/A	N/A
Northrop Grumman IT on behalf of Dept. of State Police	Department of State Police	3487064	9457752
Northrop Grumman IT on behalf of Secretary of Technology 1	Department of Technology Planning	N/A	N/A
	Center for Innovative Technology	N/A	N/A
	Virginia Information Providers Network	N/A	N/A
Northrop Grumman IT on behalf of VITA	Virginia Information Technology Agency	6125178	9006602
	Office of the Governor	N/A	N/A

## Attachment A – Licenses transferred to Northrop Grumman

### Part 2: Tables of Perpetual Licenses transferred to Northrup Grumman IT

**1. Northrop Grumman on behalf of Secretary of Administration 1 (DHR)**

Prior Software Assurance and Online Service Purchases	Coverage Expired 6/30/2008	Coverage Expired 4/30/2007
Exchange Server Enterprise	1	-
Visual Studio Team Edition Software Developer w/MSDN	-	1
Project Win32	11	-
Visio Standard Win32	1	-

**2. Northrop Grumman on behalf of Secretary of Administration 2 – No Perpetual Licenses to Transfer**

**3. Northrop Grumman on behalf of Secretary of Administration Addl. SO Agencies – No perpetual Licenses to Licenses**

**4. Northrop Grumman on behalf of Dept. of Agriculture and Consumer Affairs**

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Office Professional Plus	425
Office Standard	1
Windows CAL	10
Project Win32	1
Project Pro Win32 w/1 ProjectSvr CAL	3
Streets and Trips Win32	3
Visio Professional Win32	1
Windows Server Standard	2

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## Attachment A – Licenses transferred to Northrop Grumman

### 5. Northrop Grumman on behalf of Dept. of Alcoholic Beverage Control

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007		
Windows CAL	830		
Prior License-Only Purchases	Original Purchase 7/15/2006	Original Purchase 4/15/2006	Original Purchase 1/15/2007
Windows Business/Professional	5	-	-
Windows Server Standard	-	2	-
Windows Server Enterprise	-	2	4
Project Pro Win32 w/1 ProjectSvr CAL	2	-	1

### 6. Northrop Grumman on behalf of Dept. for the Blind and Vision Impaired

Prior License-Only Purchases	Original Purchase 4/15/2006	Original Purchase 7/15/2006
Office Professional Plus	4	1

### 7. Northrop Grumman on behalf of Secretary of Commerce & Trade 1

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Office Professional Plus	87
Windows Business/Professional	48

<Remainder of page intentionally left blank>

## Attachment A – Licenses transferred to Northrop Grumman

### 8. Northrop Grumman on behalf of Secretary of Commerce & Trade 2

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Office Professional Plus	175
Windows Business/Professional	175
Exchange Std CAL	150
SharePoint Std CAL	150
Systems Management CML	175
Windows CAL	200
Exchange Server	1
ISA Server Standard Ed Per Proc	1
Visual Studio Team Edition Software Developer w/MSDN	3
Office SharePoint Designr	10
Office SharePoint Server	1
Project Win32	1
SharePoint Internet	1
Systems Management Server Enterprise w/SQL Tech	1
Visio Standard Win32	6
Windows Server Standard	9
Prior License-Only Purchases	Original Purchase 7/15/2006
Office Professional Plus	15

### 9. Northrop Grumman on behalf of Secretary of Commerce & Trade 3 – No Perpetual Licenses to Transfer

### 10. Northrop Grumman on behalf of Secretary of Commonwealth – No Perpetual Licenses to Transfer

<Remainder of page intentionally left blank>

## Attachment A – Licenses transferred to Northrop Grumman

### 11. Northrop Grumman on behalf of Dept. of Conservation & Recreation

Prior License-Only Purchases	Original Purchase 4/15/2006	Original Purchase 7/15/2006	Original Purchase 10/15/2006	Original Purchase 1/15/2007
Office Professional Plus	51	49	24	23
Project Win32	1	2	-	-
Visio Professional Win32	-	1	-	-

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## Attachment A – Licenses transferred to Northrop Grumman

### 12. Northrop Grumman on behalf of Dept. of Corrections

Prior Software Assurance and Online Service Purchases	Coverage Expired 6/30/2007	Coverage Expired 4/30/2007
Office Professional Plus	6,224	-
Windows Business/Professional	6,224	-
Exchange Std CAL	6,224	-
SharePoint Std CAL	-	25
Systems Management CML	6,224	-
Windows CAL	6,224	-
Exchange Server	-	1
Exchange Server Enterprise	27	25
ISA Server Standard Ed Per Proc	-	2
Office SharePoint Designr	-	73
Office SharePoint Server	-	1
Project Server CAL Win32 Device CAL	1	-
Project Server Win32	1	-
Systems Management Server Enterprise	-	24
Visio Professional Win32	16	-
Visual Studio Team Edition Software Developer w/MSDN	-	16
Visual Studio Team Suite w/MSDN Premium	-	1
Windows Server Enterprise	12	55
Windows Server Standard	-	9
Windows Terminal Server Device CAL	-	100
Project Pro Win32 w/1 ProjectSvr CAL	23	-

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## Attachment A – Licenses transferred to Northrop Grumman

### 13. Northrop Grumman on behalf of Dept. of Criminal Justice Services

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Visual Studio Team Suite w/MSDN Premium	1
Visual Studio Pro w/MSDN Premium	3
Prior License-Only Purchases	Original Purchase 1/15/2007
Visio Professional Win32	1

### 14. Northrop Grumman on behalf of Dept. of Mines Minerals & Energy

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Visual Studio Team Edition Software Developer w/MSDN	1
Visual Studio Pro w/MSDN Pro	3
Prior License-Only Purchases	Original Purchase 4/15/2006
Project Win32	2
Visio Professional Win32	1

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## Attachment A – Licenses transferred to Northrop Grumman

### 15. Northrop Grumman on behalf of Dept. of Transportation

Prior Software Assurance and Online Service Purchases	Coverage Expired 6/30/2007	Coverage Expired 4/30/2007
Office Professional Plus	7,429	-
Windows Business/Professional	7,429	-
Exchange Std CAL	7,429	-
SharePoint Std CAL	7,429	-
Systems Management CML	7,429	-
Windows CAL	7,429	-
Exchange Server	-	15
MapPoint Win32	-	2
Office SharePoint Designr	-	11
Office SharePoint Server	3	-
Project Win32	-	88
Project Pro Win32 w/1 ProjectSvr CAL	175	71
Project Server Win32	-	1
Project Server CAL Win32 Device CAL	200	35
Streets and Trips Win32	-	57
Technet Plus Single Server Win32	-	1
Visio Professional Win32	-	58
Visio Standard Win32	-	91
Visual Studio Foundation Server	-	2
Visual Studio Pro w/MSDN Premium	-	2
Visual Studio Team Edition Software Developer w/MSDN	-	46
Visual Studio Team Suite w/MSDN Premium	-	22
Windows Server Enterprise	2	4
Windows Server Standard	63	39

## Attachment A – Licenses transferred to Northrop Grumman

16. Northrop Grumman on behalf of Dept. of Veterans Services – No Perpetual Licenses to Transfer

17. Northrop Grumman on behalf of Dept. of Motor Vehicles (Counters) – No Perpetual Licenses to Transfer

18. Northrop Grumman on behalf of Dept. of Motor Vehicles (HQ)

Prior Software Assurance and Online Service Purchases	Coverage Expired 6/30/2007
Office Professional Plus	1,793
Windows Business/Professional Speech Server Standard Ed Per Proc	1,793
	6

19. Northrop Grumman on behalf of Dept. of Social Services

Prior Software Assurance and Online Service Purchases	Coverage Expired 6/30/2007	Coverage Expired 4/30/2007
Office Standard	10,300	-
Windows Business/Professional	10,300	-
Exchange Std CAL	10,300	-
SharePoint Std CAL	10,300	-
Systems Management CML	10,300	-
Windows CAL	10,300	-
Exchange Server	-	1
Project Win32	2	-
Project Pro Win32 w/1 ProjectSvr CAL	26	1
Project Server Win32	-	3
Project Server CAL Win32 Device CAL	128	-
Systems Management Server Enterprise	-	2
Visio Professional Win32	2	6
Windows Server Standard	2	48
Visual Studio Team Edition Software Developer w/MSDN	-	1

## Attachment A – Licenses transferred to Northrop Grumman

### 20. Northrop Grumman on behalf of VA Economic Development Partnership

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Office Professional Plus	250
Exchange Std CAL	250
Windows CAL	250
Visual Studio Team Edition Software Developer w/MSDN	5
SQL Server Enterprise Win32 Per Proc	2
Technet Plus Single Server Win32	1
Visio Professional Win32	4
Windows Server Enterprise	2
Windows Server External Connector	2
Windows Server Standard	16
Windows Terminal Server User CAL	50

### 21. Northrop Grumman on behalf of VA Employment Commission

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007	
Visual Studio Team Edition Software Developer w/MSDN	3	
Prior License-Only Purchases	Original Purchase 9/15/2006	Original Purchase 6/15/2006
Project Win32	15	-
Windows Server Standard	1	3
Office SharePoint Designr	2	-
Visual Studio Pro w/MSDN Premium	5	-

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## Attachment A – Licenses transferred to Northrop Grumman

### 22. Northrop Grumman on behalf of Dept. of Environmental Quality

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Visual Studio Team Edition Software Developer w/MSDN	1
Visio Standard Win32	2
Prior License-Only Purchases	Original Purchase 7/15/2006
Project Win32	2
Visio Professional Win32	4

### 23. Northrop Grumman on behalf of Secretary of Finance 1

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007				
Windows Terminal Server User CAL	450				
ISA Server Enterprise per Proc	4				
Prior License-Only Purchases	Original Purchase 4/15/2006	Original Purchase 10/15/2006	Original Purchase 7/15/2006	Original Purchase 1/15/2007	
Office Professional Plus	7	-	-	-	
Systems Management CML	2	-	-	-	
Windows CAL	-	2	-	-	
Windows Terminal Server User CAL	-	-	-	600	
SQL Server Standard Win32 Per Proc	-	-	2	-	
Windows Server Standard	3	10	-	-	
Windows Server Enterprise	4	1	-	-	

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## Attachment A – Licenses transferred to Northrop Grumman

### 24. Northrop Grumman on behalf of Secretary of Finance 2

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007				
Office Professional Plus	140				
SharePoint Std CAL	115				
Visual Studio Pro w/MSDN Premium	1				
Prior License-Only Purchases	Original Purchase 4/15/2006	Original Purchase 7/15/2006	Original Purchase 10/15/2006	Original Purchase 1/15/2007	
Exchange Std CAL	115	-	-	-	
Windows CAL	115	-	-	-	
Windows Server Enterprise	1	-	-	-	
Project Win32	-	2	-	-	
Office LCS Standard	-	-	1	-	
Office LCS User CAL	-	-	140	-	
Windows Server Standard	-	-	-	1	
Office SharePoint Designr	-	-	-	3	

### 25. Northrop Grumman on behalf of Dept. of Forestry

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Exchange Std CAL	293
Windows CAL	293
Exchange Server	2
Exchange Server Enterprise	1
Windows Server Standard	14

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**Attachment A – Licenses transferred to Northrop Grumman**

<b>Prior License-Only Purchases</b>	<b>Original Purchase 4/15/2006</b>	<b>Original Purchase 7/15/2006</b>	<b>Original Purchase 1/15/2007</b>
Office Professional Plus	42	1	-
Project Win32	-	1	-
Visio Standard Win32	-	1	1
Visio Professional Win32	-	-	1
Project Pro Win32 w/1 ProjectSvr CAL	-	-	1

**26. Northrop Grumman on behalf of Dept. of Game and Inland Fisheries**

<b>Prior Software Assurance and Online Service Purchases</b>	<b>Coverage Expired 4/30/2007</b>
Office Professional Plus	200
Office Standard	300
Windows Business/Professional	3
Exchange Std CAL	10
Windows CAL	200
ISA Server Standard Ed Per Proc	2
Visual Studio Pro w/MSDN Pro	5
Visual Studio Team Suite w/MSDN Premium	6
Project Win32	25
Project Pro Win32 w/1 ProjectSvr CAL	25
Visio Professional Win32	15
Visual Studio Foundation Server	1
Visual Studio Foundation Server User CAL	4
Windows Server Standard	10
Windows Terminal Server User CAL	5

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## Attachment A – Licenses transferred to Northrop Grumman

### 27. Northrop Grumman on behalf of Dept. of General Services

Prior License-Only Purchases	Original Purchase 4/15/2006	Original Purchase 7/15/2006	Original Purchase 1/15/2006
Office Professional Plus	450	-	-
Exchange Std CAL	506	-	150
Exchange Server Enterprise	1	-	-
SQL Server Standard Win32 Per Proc	-	6	-
Windows Server Enterprise	-	8	-
Windows Server Standard	16	15	-
Windows Terminal Server User CAL	511	-	145
Project Win32	5	-	-
Visio Professional Win32	54	-	-
Visual Studio Team Edition Software Developer w/MSDN	-	11	-
Visual Studio Team Edition Software Testers w/MSDN	-	2	-

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## Attachment A – Licenses transferred to Northrop Grumman

### 28. Northrop Grumman on behalf of Dept. of Health

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007				
Office Professional Plus	8				
Windows CAL	90				
Visual Studio Team Suite w/MSDN Premium	2				
SQL Device CAL	5				
SQL Server Standard Win32 Per Proc	4				
Windows Server Standard	5				
Prior License-Only Purchases	Original Purchase 4/15/2006	Original Purchase 7/15/2006	Original Purchase 10/15/2006	Original Purchase 1/15/2007	
Office Professional Plus	390	175	91	1	
Windows CAL	431	116	-	-	
Windows Server Standard	7	5	-	-	
Windows Server Enterprise	6	22	-	-	
Windows Terminal Server Device CAL	5	-	-	-	
Visio Professional Win32	6	2	-	-	
Visual Studio Team Edition Software Developer w/MSDN	5	-	-	-	
MapPoint Win32	9	-	-	-	
Project Win32	-	-	-	-	2

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## Attachment A – Licenses transferred to Northrop Grumman

### 29. Northrop Grumman on behalf of Dept. of Health Professions

Prior Software Assurance and Online Service Purchases	Coverage Expired 11/30/2007
Office Professional Plus	250
Windows Business/Professional	250
Exchange Std CAL	250
SharePoint Std CAL	250
Systems Management CML	250
Windows CAL	250
Exchange Server Enterprise	1
ISA Server Standard Ed Per Proc	1
Office SharePoint Designr	5
Project Server CAL Win32 Device CAL	10
Project Server Win32	1
SQL Server Enterprise Win32 Per Proc	4
Visio Professional Win32	5
Visual Studio Team Suite w/MSDN Premium	1
Windows Server Enterprise	3
Windows Server Standard	12

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## Attachment A – Licenses transferred to Northrop Grumman

### 30. Northrop Grumman on behalf of Secretary of Health and Human Resources 1

Prior Software Assurance and Online Service Purchases	Coverage Expired 7/31/2007	Coverage Expired 6/30/2006	Coverage Expired 4/30/2007	Coverage Expired 6/30/2007
Office Professional Plus	670	100	7	271
Windows Business/Professional	670	-	-	271
Exchange Std CAL	520	-	-	271
SharePoint Std CAL	520	-	-	-
Systems Management CML	520	-	-	271
Windows CAL	520	-	710	271
Exchange Server	-	-	1	-
Exchange Server Enterprise	2	-	-	-
ISA Server Enterprise per Proc	2	-	-	-
ISA Server Standard Ed Per Proc	-	-	1	-
Visual Studio Team Edition Software Developer w/MSDN	-	-	6	-
Visual Studio Pro w/MSDN Premium	-	-	1	-
Office SharePoint Designr	12	-	-	-
SQL Server Standard Win32 Per Proc	4	-	-	-
Systems Management Server Enterprise	2	-	-	-
Technet Plus Single User Win32	-	-	1	-
Windows Server Enterprise	7	-	-	-
Windows Server Standard	13	-	16	-
Antigen Enterprise Managr Listed Monthly Subscription MVL	-	-	1	-
Forefront Sec ExchangeSvr Listed Monthly Subscription MVL	-	-	480	-

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**Attachment A – Licenses transferred to Northrop Grumman**

<b>Prior License-Only Purchases</b>	<b>Original Purchase 4/15/2006</b>	<b>Original Purchase 7/15/2006</b>	<b>Original Purchase 10/15/2006</b>	<b>Original Purchase 1/15/2007</b>
<b>Office Professional Plus</b>	14	20	24	60
<b>Office Standard</b>	-	-	-	1
<b>Windows Business/Professional</b>	50	-	-	-
<b>Systems Management CML</b>	5	-	-	-
<b>Windows CAL</b>	30	-	-	-

**31. Northrop Grumman on behalf of Secretary of Health and Human Resources 2**

<b>Prior License-Only Purchases</b>	<b>Original Purchase 7/15/2006</b>
<b>Windows Business/Professional</b>	2

**32. Northrop Grumman on behalf of Dept. of Juvenile Justice**

<b>Prior Software Assurance and Online Service Purchases</b>	<b>Coverage Expired 4/30/2007</b>
<b>Technet Plus Single Server Win32</b>	1
<b>Visual Studio Team Edition Software Developer w/MSDN</b>	7
<b>Visual Studio Team Edition Software Architect w/MSDN</b>	1
<b>Project Pro Win32 w/1 ProjectSvr CAL</b>	2
<b>Visual Studio Foundation Server</b>	1
<b>Visual Studio Foundation Server User CAL</b>	10

<b>Prior License-Only Purchases</b>	<b>Original Purchase 4/15/2006</b>	<b>Original Purchase 7/15/2006</b>
<b>Office Professional Plus</b>	19	20
<b>Project Pro Win32 w/1 ProjectSvr CAL</b>	-	3

**Attachment A – Licenses transferred to Northrop Grumman**

**33. Northrop Grumman on behalf of Dept. of Medical Assistance Services**

<b>Prior Software Assurance and Online Service Purchases</b>	<b>Coverage Expired 4/30/2007</b>		
<b>Exchange Server</b>	2		
<b>Exchange Server Enterprise</b>	2		
<b>ISA Server Standard Ed Per Proc</b>	1		
<b>Office SharePoint Designr</b>	20		
<b>Systems Management Server Enterprise</b>	2		
<b>Windows Server Enterprise</b>	3		
<b>Windows Server Standard</b>	14		
<b>Windows Terminal Server User CAL</b>	150		
<b>Prior License-Only Purchases</b>	<b>Original Purchase 4/30/2007</b>	<b>Original Purchase 4/15/2006</b>	
<b>Exchange Std CAL</b>	550	-	
<b>Systems Management CML</b>	450	-	
<b>Project Win32</b>	-	1	

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## Attachment A – Licenses transferred to Northrop Grumman

34. Northrop Grumman on behalf of Secretary of Natural Resources – No Perpetual Licenses to Transfer

35. Northrop Grumman on behalf of Dept. of Professional and Occupational Regulation

Prior License-Only Purchases	Original Purchase 4/15/2007
<b>Visio Professional Win32</b>	12

36. Northrop Grumman on behalf of Dept. of Public Safety 1

Prior Software Assurance and Online Service Purchases	Coverage Expired 6/30/2007	Coverage Expired 4/30/2007
<b>Office Professional Plus</b>	161	-
<b>Windows Business/Professional</b>	161	-
<b>Exchange Std CAL</b>	161	-
<b>SharePoint Std CAL</b>	161	-
<b>Systems Management CML</b>	161	-
<b>Windows CAL</b>	161	-
<b>SQL Server Enterprise Win32 Per Proc</b>	-	4
<b>Streets and Trips Win32</b>	-	3
<b>Visio Standard Win32</b>	-	4
Prior License-Only Purchases	Original Purchase 8/15/2006	
<b>Windows Business/Professional</b>	1	

## Attachment A – Licenses transferred to Northrop Grumman

### 37. Northrop Grumman on behalf of Dept. of Public Safety 2

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Exchange Server	1
Office SharePoint Server	1
Windows Server Standard	14
Office SharePoint Designr	1

### 38. Northrop Grumman on behalf of Dept. of Rehabilitation Services

Prior License-Only Purchases	Original Purchase 4/15/2006	Original Purchase 7/15/2006
Office Professional Plus	3	5
Windows CAL	107	-
Windows Server Standard	7	-

### 39. Northrop Grumman on behalf of Secretary of Transportation 1

Prior Software Assurance and Online Service Purchases	Coverage Expired 4/30/2007
Office Professional Plus	1
Project Win32	1
Windows Server Standard	1
Visio Professional Win32	1
Project Pro Win32 w/1 ProjectSvr CAL	1
SQL Server Standard Win32 Per Proc	2

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## Attachment A – Licenses transferred to Northrop Grumman

### 40. Northrop Grumman on behalf of Dept. of State Police

Prior Software Assurance and Online Service Purchases	Coverage Expired 10/31/2007	Coverage Expired 4/30/2007
Office Professional Plus	-	580
Office Standard	-	41
Exchange Std CAL	200	-
Windows CAL	200	-
Exchange Server	1	-
Exchange Server Enterprise	1	-
ISA Server Standard Ed Per Proc	1	-
MOM Standard Ops Management Lic	8	-
MOM Ops Mgr Serv Enterprisepr Ed	1	-
Project Server CAL Win32 Device CAL	-	1
Project Server Win32	-	1
Project Pro Win32 w/1 ProjectSvr CAL	-	2
Streets and Trips Win32	-	2
Visio Professional Win32	-	32
Windows Server Standard	-	2
Windows Terminal Server User CAL	-	21

### 41. Northrop Grumman on behalf of Secretary of Technology 1 – No Perpetual Licenses to Transfer

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## Attachment A – Licenses transferred to Northrop Grumman

### 42. Northrop Grumman on behalf of VITA

Prior Software Assurance and Online Service Purchases	Coverage Expired 6/30/2008	Coverage Expired 6/30/2007	Coverage Expired 4/30/2007
Office Professional Plus	-	1,202	-
Windows Business/Professional	-	1,202	-
Exchange Std CAL	-	1,202	-
SharePoint Std CAL	-	1,202	-
Systems Management CML	-	1,202	-
Windows CAL	-	1,202	-
ISA Server Enterprise per Proc	4	-	1
Office SharePoint Designr	2	1	11
Project Win32	-	1	1
SQL Server Enterprise Win32 Per Proc	8	-	-
SQL Server Standard Win32 Per Proc	6	-	-
Visio Professional Win32	-	1	192
Windows Server Enterprise	13	-	-
Windows Server Standard	68	1	7
Project Pro Win32 w/1 ProjectSvr CAL	-	-	99
Exchange Server	-	-	4
Exchange Server Enterprise	-	-	8
Systems Management Server Enterprise	-	-	1
Host Integration Server Standard Per Proc	-	-	2
ISA Server Standard Ed Per Proc	-	-	2
Streets and Trips Win32	-	-	8
Visual Studio Team Edition Software Developer w/MSDN	-	-	29
Office SharePoint Server	-	-	3
SharePoint Internet	-	-	1
BizTalk Server Enterprise Per Proc	-	-	2
Visio Standard Win32	-	-	7
Visual Studio Pro w/MSDN Premium	-	-	3
Visual Studio Team Suite w/MSDN Premium	-	-	2
Windows Terminal Server Device CAL	-	-	12

Microsoft State and Local Government  
Enterprise **Agreement – Amendment 002**

Enterprise Agreement number

01E60387

Proposal ID

CTM

000-dmills-s-0300

This amendment (“Amendment”) is made and entered into by and between the undersigned for the purpose of amending that certain Microsoft Commonwealth and Local Government Enterprise Agreement (“Agreement”) identified above between **Commonwealth of Virginia, acting through the Virginia Information Technology Agency (VITA)** and Microsoft Licensing, GP. All terms used but not defined in this Amendment will have the meanings assigned to such terms in the Agreement, as amended.

**I. Purpose of Amendment.**

The parties acknowledge both that (i) prior to the date upon which this amendment was executed, the Agreement was scheduled to expire on April 30, 2005; and the Open Enrollment Deadline pursuant to Section 18(v) of the Agreement (as previously amended), which was March 31, 2003, has passed, and that the Post-Deadline Volume Level calculated pursuant to Section 18(v) does not provide for the establishment of new price levels as more qualified desktops are added to the Commonwealth of Virginia’s (the “Commonwealth”) Aggregate Desktop count.

This amendment therefore adds a new section 18(y), which establishes a method by which enrolled affiliates will receive a reference price for enterprise products on enrollments signed following the execution of this amendment (“new enrollments”) that takes into account the combined volume of qualified desktops enrolled under active enterprise enrollments for all Commonwealth and local government entities in the Commonwealth of Virginia. Unless an exception is otherwise agreed-upon in writing with respect to one or more individual enrollments, each enrolled affiliate pursuant to a new enrollment will begin the 3-year term of its enrollment with reference prices for annual installments that will be set for the Commonwealth based upon the aggregate number of desktops enrolled in active enterprise enrollments in the Commonwealth, separately for each of three product families, during the annual pricing period during which the effective date of such enrollment falls.

The reference price of the third year installment payment for an enrollment, which is typically made at the second anniversary of its effective date, will be adjusted down or up according to multipliers set forth in this amendment, provided that, for each of the two annual pricing periods in which the first and second anniversaries of the enrollment fall, the Commonwealth has, pursuant to the terms of Section 18(y) below, either (i) increased its aggregate desktop count, relative to its initial volume level, in one or more applicable product families to a qualify for

a higher volume discount level; or (ii) decreased its aggregate desktop count in such product families to qualify for a lower volume discount level, respectively.

## II. Modifications to the Agreement.

1. Section 11(a) is hereby amended and restated, as follows:

**Term.** Provided that it has been executed by both you and us, this agreement will remain in effect for **72 full calendar months** following the effective date unless it is terminated by either party as described below. Each enrollment will have the term provided in that enrollment.

2. Section 18(h) is hereby amended and restated, as follows:

Entire agreement. The documents identified on the cover page to this agreement constitute the entire agreement concerning the subject matter and supersede any prior or contemporaneous communications. *In the case of a conflict between any of these documents that is not resolved expressly in the documents, their terms will control in the following order: (i) these terms and conditions (including any amendments hereto in reverse order of execution), and the accompanying cover page (except under circumstances where an outsourcer enrollment is used, in which case the terms of the outsourcer enrollment control over these terms and conditions); (ii) the Product List; (ii) the product use rights; and (iv) all other enrollments under this agreement.* The terms of any purchase order or any general terms and conditions you or your affiliates maintain, other than those mandatory terms required by statute or regulation, do not apply. This agreement (except the product use rights and the Product List) can be changed only by an amendment signed by *an authorized representative* of both parties.

3. The following definitions are hereby added to Section 1 of the agreement, but do not apply to previously-executed enrollments for which Section 18(v) applied with respect to determination of reference prices:

“aggregate family desktop count” means, with respect to a particular product family as of a particular annual pricing date, the aggregate number of qualified desktops under all unexpired enrollments for which one or more products in such family are chosen as enterprise products as of such date, including both (i) the original qualified desktops ordered under such unexpired enrollments, plus (ii) any additional qualified desktops added pursuant to true up orders;

“adjustment multiplier” means, with respect to a product family on the second anniversary of the effective date of an enrollment for which it is determined, a number by which the initial annual reference price is multiplied in order to determine the reference price for the third annual installment payment, pursuant to the terms and conditions of Section 18(y);

“annual pricing date” means each of the following:

- (i) May 1, 2005 (the “first annual pricing date”), which is the day following the expiration of the Post-Deadline Volume Level pricing pursuant to Section 18(v);
- (ii) the day following the eleventh (11th) full calendar month following such first annual pricing date (the “second annual pricing date”); and
- (iii) the first day of the calendar month that occurs every 12 months following the second annual pricing date, until the last enrollment executed hereunder expires or is otherwise terminated.

For example, because first annual pricing date is May 1, 2005, then the second annual pricing date shall be April 1, 2006, and each subsequent annual pricing date shall occur on April 1 of each successive calendar year until the last enrollment hereunder expires or is otherwise terminated;

“annual price level” means, with respect to a particular product family and as of a particular annual pricing period, the volume discount level, determined pursuant to the terms and conditions of Section 18(y), by which each of the following shall be determined, based upon the aggregate family desktop count for such product family as of the annual pricing date upon which such the determination of such level for such period is made:

- (i) the initial annual reference prices of enterprise products in such product family for new enrollments with effective dates which occur in such annual pricing period; and
- (ii) the adjustment multiplier with respect to enterprise products in such product family for previously-executed enrollments (i) which have effective dates on or after the first annual pricing date and (i) for which the second anniversary falls in such annual pricing period;

“annual pricing period” means each period which:

- (i) begins on the first annual pricing date, or any anniversary thereof; and
- (ii) ends twelve (12) full calendar months following the day it begins.

For example, because first annual pricing date is May 1, 2005, then: the first annual pricing period will run from May 1, 2005 to April 30, 2006; the second annual pricing period will run from May 1, 2006 to April 30, 2007; and so forth.

Note that, with the exception of the first annual pricing period, each annual pricing period begins one month following the annual pricing date upon which the annual price level for such period is determined pursuant to Section 18(y). Such one-month period is necessary for us to: (i) count the aggregate number of qualified desktops enrolled by Virginia state and local government entities in unexpired enrollments, (ii) calculate the annual price levels and reference prices for the subsequent annual pricing period, and (iii) implement adjustments, if any, to the reference prices of

third year installment payments for enrollments whose second anniversary falls in such subsequent period.

“component platform product” means any of the following enterprise products:

- (i) Microsoft Office Professional;
- (ii) Microsoft Office Standard;
- (iii) Microsoft Windows XP Professional Operating System Upgrades; and
- (iv) Microsoft Core CAL (or, when purchased together under a single enrollment, the following: (Microsoft Windows Server CAL, Microsoft Exchange CAL; Microsoft Systems Management CAL, and Microsoft SharePoint Portal Server CAL).

“ending price level” means, with respect to an enterprise product ordered pursuant to a particular enrollment, the volume discount level used to determine the adjustment multipliers applied to apply to the third year installments payment, second anniversary true up payment, and third anniversary true up payment, respectively, pursuant to the terms and conditions of Subsection 18(y)(4).

“Government EA Price List” means the Microsoft Commonwealth and Local Government Enterprise Agreement Price List that is provided on a monthly basis to each reseller, which contains the reference prices for both enterprise products and additional products.

“initial annual reference price” means, with respect to an enterprise product ordered pursuant to a particular enrollment, the annual per-desktop unit reference price for the first and second annual payments.;

“initial price level” means, with respect to each enterprise product licensed pursuant to a an enrollment executed hereunder, the volume discount level used to determine the initial annual reference price for such enterprise product;

“non-renewal enrollment” means any enrollment executed hereunder that is not a renewal enrollment;

“original true up reference price” means, with respect to an enterprise product at the first, second or third anniversaries of an enrollment, respectively, the original per-additional-desktop unit reference price for the true up order due at such anniversary, as determined at the effective date of such enrollment pursuant to Section 18(y);

“product family” means any of the following collections of enterprise products, as defined in Section 1: (i) Office family; (ii) Windows family; and/or (iii) CAL family;

“renewal enrollment” means an enrollment executed hereunder pursuant to which a renewal order for enterprise products is made;

“Select Price List” means the Microsoft Select Agreement Price List that is provided on a monthly basis to each reseller, which contains the estimated retail prices for products made available pursuant to the Microsoft select program;

“unexpired enrollment” means, with respect to an annual pricing date, an enterprise enrollment under either (i) this agreement; or (ii) another Microsoft Enterprise Agreement to which either you or one of your affiliates is party, provided that such enrollment shall not have expired or been terminated prior to such annual pricing date; and

4. The following definitions in Section 1 are hereby amended and restated as follows, solely with respect to new enrollments and with no effect upon enrollments executed prior to execution of this amendment:

“CAL family” means any of the following client access license (“CAL”) products, when such products are chosen as enterprise products on an enrollment: (i) Microsoft Core CAL; (ii) Microsoft Windows Server CAL; (iii) Microsoft Exchange Server CAL; (iv) Microsoft SQL Server CAL; (v) Microsoft Systems Management Server CAL; or (vi) Microsoft SharePoint Portal Server CAL;

“qualified desktop” means, *except as otherwise modified in Section 18z with respect to a VITA-Included Enrollment or VITA-Controlled Enrollment*, any personal desktop computer, portable computer, workstation or similar device that is used by or for the benefit of an enrolled affiliate or any affiliate included in its enterprise and that meets the minimum requirements for running any of the enterprise products. Qualified desktops do not include: (i) any computer that is designated as a server and not used as a personal computer, (ii) any system dedicated to run ONLY line-of-business software (e.g., an accounting or bookkeeping program used by an accountant, or a computer-aided design program used by an engineer or architect); or (iii) any system running an embedded operating system (e.g. Windows 9.x for embedded, Windows XP embedded);

5. A new Section 18(y) is hereby added to the agreement, as follows:

**Determination of pricing for enterprise products.**

(1) Annual price levels. For each product family and for each annual pricing period, we will determine an annual price level, pursuant to Table 1 in Attachment B, by matching the aggregate family desktop count for such family (as of the annual pricing date which immediately precedes such annual pricing period) with the column marked “Annual Price Level Name.”

For example, the annual price level for the Office family during an annual pricing period that runs between May 1, 2005 and April 30, 2006, shall be determined according to Table 1 in Attachment B by counting the aggregate number of qualified desktops, in unexpired enrollments which contain Microsoft Office or Microsoft Office Professional as enterprise products, as of April 1, 2005. If such aggregate count is less than 14,999 qualified desktops, the annual price level will be “Level C”; and if the count is between 15,000 and 39,999, the annual price level will be the “Level D,” and so forth.

(2) Establishing component product reference prices for new enrollments. The Government EA Price List provided to resellers generally contains reference prices for the following common enterprise products:

- Microsoft Office Professional;
- Microsoft Windows XP Professional Operating System Upgrades;
- Microsoft Core CAL; and
- Microsoft Desktop Professional (which is a suite composed of the preceding three component products, and the reference price for which is equal to the sum of the three component reference prices less the applicable platform discount).

For the purposes of the agreement, the Government EA Price List entry for Microsoft Desktop Professional shall not apply, since this section 18(y) provides an alternate and equivalent means by which the three component products thereof shall be priced. Rather, the components of Microsoft Desktop Professional shall be sold as separate line items to the reseller. This is necessary in order that the annual price levels which apply to each of the three product families which contain the components may be adjusted separately, as set forth below.

On each annual pricing date, we will establish a list of initial annual reference prices and original true up reference prices for enterprise products (collectively, "initial reference prices") for each of the most commonly requested enterprise products, plus any other enterprise products for which you may have requested reference prices. We will provide you and your reseller(s) with such initial reference prices, and will also provide your reseller(s) with the corresponding confidential reseller costs which correspond to such initial reference prices

Such initial reference prices shall apply to all new enrollments with effective dates during the annual pricing period which immediately follows such annual pricing date, but not to enrollments with effective dates thereafter, unless different initial reference prices are agreed upon in writing between us and an enrolled affiliate (or you) based upon certain exceptions to standard terms including (but not limited to) applied credits and/or consideration for unexpired Software Assurance owned by the enrolled affiliate as of the effective date of its enrollment.

Initial reference prices for each enterprise product shall be calculated, using the following formulas, using such product's standard license estimated retail price ("L") (except as noted in the following sentence) and one-year Software Assurance estimated retail price ("SA") pursuant to the Select Price List which is in effect as of the annual pricing date upon which the determination is being made. For the purposes of determining the value of "L" solely with respect to the Windows Professional Upgrade, sixty percent (60%) of the Select estimated retail price of such Upgrade shall be used. The Select volume discount level to be used for such L and SA price (level C or D) shall be determined pursuant to Table 1 in Attachment B by matching the aggregate family desktop count for the applicable product family (as of the annual pricing date which immediately precedes such

annual pricing period) with the column marked "EA / Select Price List Volume Level."

- (i) for orders of License & Software Assurance on an initial order made pursuant to a non-renewal enrollment, the initial annual reference price shall be calculated according to the following formula:

$\{ [ L + ( 3 \times SA ) ] \times 0.85$ , divided by 3  $\}$ , less an additional premium level discount (if applicable) and/or platform discount (if applicable) pursuant to the terms and conditions below governing such additional discounts.

- (ii) for orders of Software Assurance on an initial order made pursuant to a renewal enrollment, the initial annual reference price shall be calculated according to the following formula:

$SA \times 0.95$ , less an additional premium level discount (if applicable) and/or platform discount (if applicable) pursuant to the terms and conditions below governing such additional discounts;

- (iii) for orders of License & Software Assurance on the first anniversary true up order made pursuant to either a renewal enrollment or a non-renewal enrollment, the original true up reference price shall be calculated according to the following formula:

$\{ L + ( 2.5 \times SA ) \} \times 0.85$ , less an additional premium level discount (if applicable) and/or platform discount (if applicable) pursuant to the terms and conditions below governing such additional discounts;

- (iv) for orders of License & Software Assurance on the second anniversary true up order made pursuant to either a renewal enrollment or a non-renewal enrollment, the original true up reference price shall be calculated according to the following formula:

$\{ L + ( 1.5 \times SA ) \} \times 0.85$ , less an additional premium level discount (if applicable) and/or platform discount (if applicable) pursuant to the terms and conditions below governing such additional discounts; and

- (v) for orders of License & Software Assurance on the third anniversary true up order made pursuant to either a renewal enrollment or a non-renewal enrollment, the original true up reference price shall be calculated according to the following formula:

$\{ L + ( 0.5 \times SA ) \} \times 0.85$ , less an additional premium level discount (if applicable) and/or platform discount (if applicable) pursuant to the terms and conditions below governing such additional discounts.

The results of each of the above calculations will be rounded to the nearest penny.

For example, if, at the annual pricing date which immediately precedes an annual pricing period, the standard license estimated retail price (L) for an enterprise product is \$100.00 per desktop, and the one-year Software Assurance estimated retail price is \$25.00 per desktop, then:

- The initial annual reference price for License & Software Assurance for a non-renewal enrollment during such annual pricing period will be:

$$\{ [ \$100.00 + ( 3 \times \$25.00 ) ] \times 0.85, \text{ divided by } 3 \} = \$49.58 \text{ per desktop per year, less platform discount (if any), less premium level discount (if any);}$$

- The initial annual reference price for Software Assurance for a renewal enrollment during such annual pricing period will be:

$$\$25.00 \times 0.95 = \$23.75 \text{ per desktop per year, less platform discount (if any), less premium level discount (if any);}$$

- The original true up reference price for License & Software Assurance at the first anniversary of the effective date of either a renewal or non-renewal enrollment during such annual pricing period will be:

$$\{ \$25.00 + ( 2.5 \times \$25.00 ) \} \times 0.85 = \$138.13 \text{ per desktop, less platform discount (if any), less premium level discount (if any);}$$

- The original true up reference price for License & Software Assurance at the second anniversary of the effective date of either a renewal or non-renewal enrollment during such annual pricing period will be:

$$\{ \$100.00 + ( 1.5 \times \$25.00 ) \} \times 0.85 = \$116.88 \text{ per desktop, less platform discount (if any), less premium level discount (if any);}$$

- The original true up reference price for License & Software Assurance at the third anniversary of the effective date of either a renewal or non-renewal enrollment during such annual pricing period will be: and

$$\{ \$100.00 + ( 0.5 \times \$25.00 ) \} \times 0.85 = \$96.63 \text{ per desktop, less platform discount (if any), less premium level discount (if any).}$$

(3) Additional discounts applied to initial reference prices for components. After calculating initial reference prices for each component enterprise product pursuant to the above formulas, the following additional discounts may be applied to such prices, subject to the terms and conditions below:

- (A) A “platform discount” will be applied to component platform products (e.g. Microsoft Office Professional) ordered pursuant to platform enrollments, but not to other enterprise products, if any (e.g. Microsoft Project), in such platform enrollments. Such platform discounts are as follows:

- (i) 15% for initial orders of License & Software Assurance on non-renewal enrollments;

- (ii) 5% for initial orders (but not true up orders) of Software Assurance for renewal enrollments; and
- (iii) 15% for true up orders of License & Software Assurance for both renewal enrollments and non-renewal enrollments.

For example, if the initial annual reference price of a component product in a non-renewal platform enrollment, before the platform discount is applied, is \$100.00, the platform discount will be \$15.00, and the resulting initial annual reference price will be:

$$\{ \$100.00 - \$15.00 \} = \$85.00.$$

- (B) A “premium level discount” will be applied to an enterprise product, provided that the aggregate family desktop count that applies to such product is equal to or greater than 40,000 qualified desktops. The amount of such premium level discount shall be determined according to Table 1 in Attachment B, by matching the aggregate family desktop count for the applicable product family (as of the annual pricing date which immediately precedes such annual pricing period) with the applicable column under the heading “Premium Level Discount.” Such premium level discount (if any) will be applied before applying a platform discount (if any).

For example, if the initial annual reference price of a component product in a non-renewal platform enrollment, before the platform discount and premium level discount are applied, is \$100.00, and the aggregate desktop count for the product family is 40,000 qualified desktops, then a corresponding premium level discount of 2% will be applied (i.e. a discount of \$2.00), so the resulting initial annual reference price before the platform discount is applied will be:

$$\{ \$100.00 - \$2.00 \} = \$98.00.$$

The platform discount applied will be 15% of \$98.00, which is \$14.70, so the resulting annual reference price after the platform discount is applied will be

$$\{ \$98.00 - 14.70 \} = \$83.30.$$

The results of each of the above discount calculations will be rounded to the nearest penny. Such discounts will be provided so long as they are made generally available to all volume licensing customers. If the amount of either such generally available discount is increased, decreased, or eliminated, such increase, decrease or elimination will apply to the annual pricing period which immediately follows such event.

Tables 4 through 7 in Attachment B show the initial annual reference prices and original true up reference prices, respectively, that shall apply during the first

annual pricing period. We will provide you with new initial annual reference prices on or before the first day of each subsequent annual pricing period.

(4) Price adjustments for third annual installment and true up payments upon sustained change of annual price level.

The unit reference prices of the following payments (collectively, the “adjustable payments”) are subject to change (“adjustment”), provided that the Commonwealth’s annual price level has increased or decreased, relative to the initial price level, as of both the first and second anniversaries of an enrollment:

- (i) the third annual installment payment for the qualified desktops ordered pursuant to the initial order;
- (ii) additional qualified desktops (if any) ordered pursuant the second anniversary true up order; and
- (iii) additional qualified desktops (if any) ordered pursuant the second anniversary true up order.

Such adjustment in unit reference price will be determined separately for each product family, pursuant to Tables 2 and 3 in Attachment B. The adjustment multiplier for each applicable product family on an enrollment is determined in such table by finding the intersection of (i) the column which corresponds to the initial price level, and (ii) the line which corresponds to the ending price level. The adjustment multiplier applicable to each product family will then be multiplied by the initial annual reference price for each applicable enterprise product in such product family, in order to determine the new reference prices for the adjustable payments.

For the purposes of this Subsection 18(y)(4), one annual price level is “higher” than another volume level if the minimum aggregate family desktop count requirement for such level is greater than that for the second level, and one annual price level is “lower” than another volume level if the minimum aggregate family desktop count requirement for such level is lower than that for the second level. For example, Level D is higher than Level C, but is lower than the 40K Premium Level.

In the event that your annual price level becomes lower in one annual pricing period than in the previous year, we (or the reseller on our behalf) will send a written notice to each enrolled affiliate that executed an enrollment with an effective date occurring during the previous annual pricing period, advising such enrolled affiliate that a price increase may occur for the third annual installment payment pursuant to its enrollment in the event that the subsequent annual price level has not increased to a level equal to or greater than the initial annual price level. Such notice will be delivered at least 12 months prior to the date upon which such third annual installment payment will become due.

The ending price level shall be determined for each product family on each enrollment according to the relationship between initial price level and the annual price levels for the first and second anniversaries, respectively, according to the following table:

Annual Price Level Criteria:			Examples with sample price levels:			
If the first anniversary price level is:	and the second anniversary price level is:	then the ending price level will be:	Initial Annual Price level	First Anniversary Annual Price Level	Second Anniversary Annual Price Level	Ending Price Level
the same as the initial price level	any level	The initial price level	D	D	Any Level	D
Higher than the initial price level	the same or higher than the first anniversary price level	The first anniversary price level	D	40K Premium Level	40K Premium Level	40K Premium Level
Higher than the initial price level	lower than the first anniversary price level but higher than the initial level	the second anniversary price level	D	40K Premium Level	D	D
Higher than the initial price level	the same as or lower than the initial price level	The initial price level	40K Premium Level	60K Premium Level	D or 40K Premium Level	40K Premium Level
Lower than the initial price level	the same or lower than the first anniversary price level	The first anniversary price level	60K Premium Level	40K Premium Level	D or 40K Premium Level	40K Premium Level
Lower than the initial price level	Higher than the first anniversary price level but lower than the initial level	the second anniversary price level	60K Premium Level	D or 40K Premium Level	40K Premium Level	40K Premium Level
Lower than the initial price level	the same as or higher than the initial price level	The initial price level	40K Premium Level	D	40K Premium Level or 60K Premium Level	40K Premium Level

(5) *Price level for enrollments executed during the first annual pricing period (“year 1 enrollments”).*

*The parties agree that the initial price level for each product family for the first annual pricing period shall be as follows, based on the following aggregate family desktop counts:*

<b>Family</b>	<b>Level</b>	<b>Count</b>
Office	40K Premium	49,789
Windows	40K Premium	40,177
CAL	60K Premium	60,620

**(6) Additional terms and conditions**

You acknowledge, on behalf of your enrolled affiliates, that the reference prices for the third annual payment of certain enrollments, along with true up payments due at their second and third anniversaries, respectively, may increase pursuant to the terms of this Section 18(y). It is recommended that affiliates not enter into enrollments hereunder unless (a) they are aware of such possibility that their price may increase as stated above; and (b) they anticipate that sufficient budget will be approved to cover such increased payment amount.

You acknowledge and agree that there may be certain instances in which the reference prices of certain enterprise products in certain enrollments executed by your affiliates, whether under this Enterprise Agreement or otherwise under a separate Enterprise Agreement or Enterprise Subscription agreement, may be adjusted in ways that vary from the adjustments agreed upon in this Section 18(y), pursuant to separate agreement between the enrolled affiliate and us. Such instances may include, but are not limited to, those enrollments: (i) that were executed prior to this enterprise agreement; (ii) that contain other enterprise products than those in the three product families defined herein; (iii) for which we negotiate a special payment schedule or ramped installment payments; and (iv) for which a special price is negotiated to match the equivalent Microsoft Select estimated retail price for sufficient licenses, such as to account for unexpired Upgrade Advantage and/or Software Assurance.

**Reference prices are provided only for the purpose of comparison. Actual pricing and payment terms will be determined by agreement between each enrolled affiliate and its chosen reseller. All adjustments to reference prices defined herein will correspond to a proportional adjustment we will make to the reseller’s confidential cost.**

You agree to assist us in making existing and prospective enrolled affiliates aware of the general terms, conditions, and benefits of entering into an Enrollment, by:

- (i) posting such information a website accessible to each such affiliate;
- (ii) participating, upon our request and as your schedule reasonably permits, in conference calls with prospective enrolled affiliates, to discuss such terms, conditions, and benefits.

6. A new Section 18(z) is hereby added to the agreement, as follows:

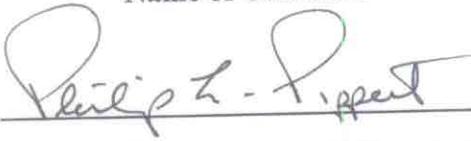
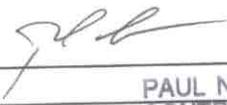
*VITA Enrollment. The parties acknowledge that the Virginia Information Technology Agency ("VITA"), which is the successor agency to the Virginia Department of Information Technology, may be the enrolled affiliate with respect to several enrollments hereunder (collectively, "VITA-Controlled Enrollments") pursuant to which VITA is excluded from the enterprise because VITA is acting as the contracting entity on behalf of those agencies included pursuant to such enterprises. With respect to one or more enrollments ("VITA-Included Enrollments") pursuant to which VITA is the sole entity included in such enrollment's enterprise, VITA may exclude from its qualified desktops on such VITA-Included Enrollments those devices which are used by VITA employees on the premises of other agencies that are included in the enterprise(s) of one or more VITA-Controlled Enrollments (collectively, "Remote VITA Employees"). VITA agrees that (i) it will include the qualified desktops for such Remote Employees in the qualified desktop counts pursuant to the VITA-Controlled Enrollments pursuant to which the agencies at which such Remote VITA Employees perform their job duties are enrolled; and (ii) in the event that the VITA-Controlled Enrollment which covers a Remote VITA Employee does not provide such employee's qualified desktop with one or more Client Access Licenses ("CALs") needed for such employee to access one or more of VITA's servers, then VITA will purchase a CAL for such employee pursuant to a Microsoft Select Enrollment.*

### **III. Effect of Amendment.**

Except as specifically amended by this Amendment, all provisions of the Agreement identified above shall remain unchanged and in full force and effect. This Amendment is not legally binding until executed by both parties and shall become effective on the date of signature of the contracting Microsoft affiliate. When this amendment is fully executed, you will receive a confirming copy.

You must execute and return two (2) copies of this Amendment to the address below on or before May 1, 2005, in order for the terms and conditions of this Amendment to apply.

Microsoft Licensing, GP  
Attn: Dept. 551, Volume Licensing  
6100 Neil Road, Suite 210  
Reno, NV 89511-1137

<b>Customer:</b> Commonwealth of Virginia, acting through the Virginia Information Technology Agency (VITA)	<b>Contracting Microsoft Affiliate:</b> Microsoft Licensing, GP
Name of Customer By 	Name of contracting Microsoft affiliate By 
Name, Title PHILIP L. PIPPERT ASSOC. DIRECTOR	Name, Title PAUL NELSON CONTRACT ADMINISTRATOR
Date JUN 29, 2005	Date JUN 23 2005

Prepared by: David Mills

Licensing Executive,  
Microsoft Corporation  
Agent for Microsoft Licensing, GP



**Table 1: Volume Level Determinations**

Aggregate Family Desktop Count	Annual Price Level Name	EA / Select Price List Volume Level	Premium Level Discount
Below 40,000	Level D	Level D	N/A
40,000-59,999	40K Premium Level	Level D	2.00%
60,000-79,999	60K Premium Level	Level D	4.00%
80,000-119,999	80K Premium Level	Level D	6.00%
120,000-299,999	120K Premium Level	Level D	7.50%

**Table 2: Adjustment Multipliers to apply to 3rd year payments**

		D	40K	60K	80K	120K
Ending Price Level	D	1.00	1.06	1.07	1.07	1.07
	40K	0.94	1.00	1.06	1.07	1.07
	60K	0.88	0.94	1.00	1.06	1.07
	80K	0.82	0.88	0.94	1.00	1.05
	120K	0.77	0.83	0.89	0.95	1.00

**Table 3: Adjustment Multipliers to apply to 2nd and 3rd year true up payments**

		D	40K	60K	80K	120K
Ending Price Level	D	1.00	1.02	1.04	1.06	1.07
	40K	0.98	1.00	1.02	1.04	1.06
	60K	0.96	0.98	1.00	1.02	1.04
	80K	0.94	0.96	0.98	1.00	1.02
	120K	0.92	0.94	0.96	0.98	1.00

**Table 4: Annual Per-Desktop Reference Pricing for Platform Enrollments:**

Product Description	Part Number (SKU)	1st Annual Payment	2nd Annual Payment	3rd Annual Payment
		Reference Price (USD)	Reference Price (USD)	Reference Price (USD)
Office Pro Win32 Listed Languages Lic/SA Pack MVL	269-05924	157.67	157.67	157.67
Office Pro Win32 Listed Languages SA MVL	269-05925	91.63	91.63	91.63
Office Win32 Listed Languages Lic/SA Pack MVL	021-05654	127.49	127.49	127.49
Office Win32 Listed Languages SA MVL	021-05655	74.09	74.09	74.09
Core CAL Listed Languages Lic/SA Pack MVL	W06-00020	61.39	61.39	61.39
Core CAL Listed Languages SA MVL (Only if renewing previous Core CAL EA)	W06-00019	32.75	32.75	32.75
Core CAL Listed Languages SA MVL If renewing previous BackOffice CAL EA)	W06-00019	42.46	42.46	42.46
Exchange CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	381-01647	19.92	19.92	19.92
Exchange CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	381-01648	10.66	10.66	10.66
SharePoint Portal CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	H05-00266	20.90	20.90	20.90
SharePoint Portal CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	H05-00267	11.20	11.20	11.20
SQL CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	359-00851	43.48	43.48	43.48
SQL CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	359-00852	23.27	23.27	23.27
Sys Mgmt CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	355-00837	11.99	11.99	11.99
Sys Mgmt CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	355-00838	6.30	6.30	6.30
Windows CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	C78-01061	8.60	8.60	8.60
Windows CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	C78-01062	4.61	4.61	4.61
Windows Pro Listed Languages Upg/SA Pack MVL	B23-03192	50.64	50.64	50.64
Windows Professional Listed Languages SA MVL	E85-01014	37.44	37.44	37.44
Windows Terminal Services CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	R19-00094	23.74	23.74	23.74
Windows Terminal Services CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	R19-00050	12.71	12.71	12.71

**Table 5: Annual Per-Desktop Reference Pricing for Non-Platform Enrollments:**

Product Description	Part Number (SKU)	1st Annual Payment	2nd Annual Payment	3rd Annual Payment
		Reference Price (USD)	Reference Price (USD)	Reference Price (USD)
Office Pro Win32 Listed Languages Lic/SA Pack MVL	269-05924	185.50	185.50	185.50
Office Pro Win32 Listed Languages SA MVL	269-05925	96.46	96.46	96.46
Office Win32 Listed Languages Lic/SA Pack MVL	021-05654	149.98	149.98	149.98
Office Win32 Listed Languages SA MVL	021-05655	77.99	77.99	77.99
Core CAL Listed Languages Lic/SA Pack MVL	W06-00020	72.23	72.23	72.23
Core CAL Listed Languages SA MVL (Only if renewing previous Core CAL EA)	W06-00019	34.46	34.46	34.46
Core CAL Listed Languages SA MVL (If renewing previous BackOffice CAL EA)	W06-00019	47.28	47.28	47.28
Exchange CAL Listed Languages Lic/SA Pack MVL	381-01647	24.93	24.93	24.93
Exchange CAL Listed Languages SA MVL	381-01648	11.94	11.94	11.94
Exchange CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	381-01647	23.43	23.43	23.43
Exchange CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	381-01648	11.22	11.22	11.22
SharePoint Portal CAL Listed Languages Lic/SA Pack MVL	H05-00266	26.17	26.17	26.17
SharePoint Portal CAL Listed Languages SA MVL	H05-00267	12.53	12.53	12.53
SharePoint Portal CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	H05-00266	24.60	24.60	24.60
SharePoint Portal CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	H05-00267	11.78	11.78	11.78
SQL CAL Listed Languages Lic/SA Pack MVL	359-00851	54.42	54.42	54.42
SQL CAL Listed Languages SA MVL	359-00852	26.07	26.07	26.07
SQL CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	359-00851	51.15	51.15	51.15
SQL CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	359-00852	24.50	24.50	24.50
Sys Mgmt CAL Listed Languages Lic/SA Pack MVL	355-00837	15.00	15.00	15.00
Sys Mgmt CAL Listed Languages SA MVL	355-00838	7.05	7.05	7.05
Sys Mgmt CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	355-00837	14.10	14.10	14.10
Sys Mgmt CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	355-00838	6.63	6.63	6.63
Windows CAL Listed Languages Lic/SA Pack MVL	C78-01061	10.76	10.76	10.76
Windows CAL Listed Languages SA MVL	C78-01062	5.16	5.16	5.16
Windows CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	C78-01061	10.11	10.11	10.11
Windows CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	C78-01062	4.85	4.85	4.85
Windows Pro Listed Languages Upg/SA Pack MVL	B23-03192	59.57	59.57	59.57
Windows Professional Listed Languages SA MVL	E85-01014	39.41	39.41	39.41
Windows Terminal Services CAL Listed Languages Lic/SA Pack MVL	R19-00094	29.71	29.71	29.71
Windows Terminal Services CAL Listed Languages SA MVL	R19-00050	14.23	14.23	14.23
Windows Terminal Services CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	R19-00094	27.93	27.93	27.93
Windows Terminal Services CAL Listed Languages SA MVL (Only if all 4 components of Core CAL are selected)	R19-00050	13.38	13.38	13.38

**Table 6: Per-Desktop True-Up Reseller and Reference Pricing for Platform Enrollments:**

Product Description	Part Number (SKU)	1st Anniv True-Up	2nd Anniv True-Up	3rd Anniv True-Up
		Reference Price (USD)	Reference Price (USD)	Reference Price (USD)
Office Pro Win32 Listed Languages Lic/SA Pack MVL	269-05924	436.32	362.97	289.62
Office Win32 Listed Languages Lic/SA Pack MVL	021-05654	352.80	293.49	234.17
Core CAL Listed Languages Lic/SA Pack MVL	W06-00020	171.05	144.85	118.63
Exchange CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	381-01647	55.46	46.93	38.40
SharePoint Portal CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	H05-00266	58.24	49.28	40.32
SQL CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	359-00851	121.12	102.50	83.86
Sys Mgmt CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	355-00837	33.42	28.39	23.35
Windows CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	C78-01061	23.94	20.27	16.58
Windows Pro Listed Languages Upg/SA Pack MVL	B23-03192	136.92	106.96	76.99
Windows Terminal Services CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	R19-00094	66.12	55.95	45.78

**Table 7: Per-Desktop True-Up Reference Pricing for Non-Platform Enrollments:**

Product Description	Part Number (SKU)	1st Anniv True-Up	2nd Anniv True-Up	3rd Anniv True-Up
		Reference Price (USD)	Reference Price (USD)	Reference Price (USD)
Office Pro Win32 Listed Languages Lic/SA Pack MVL	269-05924	513.32	427.02	340.72
Office Win32 Listed Languages Lic/SA Pack MVL	021-05654	415.06	345.28	275.50
Core CAL Listed Languages Lic/SA Pack MVL	W06-00020	201.23	170.42	139.58
Exchange CAL Listed Languages Lic/SA Pack MVL	381-01647	69.41	58.74	48.06
Exchange CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	381-01647	65.24	55.22	45.18
SharePoint Portal CAL Listed Languages Lic/SA Pack MVL	H05-00266	72.90	61.68	50.47
SharePoint Portal CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	H05-00266	68.52	57.98	47.44
SQL CAL Listed Languages Lic/SA Pack MVL	359-00851	151.58	128.27	104.95
SQL CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	359-00851	142.50	120.58	98.66
Sys Mgmt CAL Listed Languages Lic/SA Pack MVL	355-00837	41.83	35.52	29.22
Sys Mgmt CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	355-00837	39.31	33.40	27.47
Windows CAL Listed Languages Lic/SA Pack MVL	C78-01061	29.97	25.36	20.75
Windows CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	C78-01061	28.17	23.84	19.51
Windows Pro Listed Languages Upg/SA Pack MVL	B23-03192	161.09	125.83	90.58
Windows Terminal Services CAL Listed Languages Lic/SA Pack MVL	R19-00094	82.75	70.03	57.30
Windows Terminal Services CAL Listed Languages Lic/SA Pack MVL (Only if all 4 components of Core CAL are selected)	R19-00094	77.78	65.83	53.86



Microsoft State and Local Government

Enterprise **Agreement – Amendment 002**

Enterprise Agreement number  
Microsoft affiliate to complete

01E60387

Microsoft Proposal ID

CTM  
000-dmills-s-0271

This amends the Microsoft State and Local Government Enterprise Agreement identified above between the **Commonwealth of Virginia, acting by and through the Virginia Information Technology Agency** and Microsoft Licensing, GP. Any terms that are used but not defined in this amendment will have the same meanings as in the agreement.

I. Amendment.

1. Section 11a is hereby amended and restated as follows:

Term. Provided that it has been executed by both you and us, this agreement will remain in effect for **38** full calendar months following the effective date unless it is terminated by either party as described below. Each enrollment will have the term provided in that enrollment. *The parties acknowledge that such 38-month term represents a 2-month extension beyond the original term hereof, in order to provide affiliates with the ability to enroll while the parties negotiate in good faith the terms and conditions regarding a longer extension. Notwithstanding anything to the contrary in this agreement, the reference prices that shall apply during the 2-month extension period established hereby shall be the same as those which applied as of the 36<sup>th</sup> month of the original term hereof.*

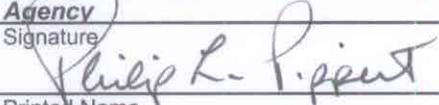
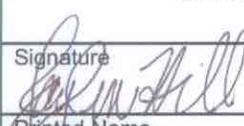
II. Effect of Amendment.

Except as specifically amended by this amendment, all provisions of the enrollment shall remain unchanged and in full force and effect. You must execute and return 2 copies of this amendment to the address below on or before May 13, 2005 in order for the terms and conditions of this amendment to be considered by Microsoft Licensing, GP.



This amendment is not legally binding until executed by Microsoft Licensing, GP and shall become effective retroactively as of May 1, 2005. When this amendment is fully executed, you will receive a confirming copy.

Microsoft Licensing, GP  
 Attn: Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, NV 89511-1137

<b>Customer</b>	<b>Contracting Microsoft Affiliate</b>
Name <b>Commonwealth of Virginia, acting by and through the Virginia Information Technology Agency</b>	<b>Microsoft Licensing, GP</b>
Signature 	Signature 
Printed Name <b>PHILIP L. PIPPERT</b>	Printed Name <b>Joylene Hill</b>
Printed Title <b>ASSOC. DIRECTOR, SCM</b>	Printed Title <b>Contract Administrator</b>
Signature Date <b>April 29, 2005</b>	Effective Date of amendment May 1, 2005

VA - 020409 - MSE

Prepared by: David Mills

# Microsoft®

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## Licensing, GP

MICROSOFT LICENSING, GP  
Dept. 551-Volume Licensing  
6100 Neil Road, Suite 210  
Reno, NV 89511-1137  
United States of America

Phone: (775) 823-5600  
Fax: (775) 826-9383

May 6, 2005

<b>Program:</b>	<b>Enterprise 6.1</b>
<b>Master Number:</b>	<b>01E60387</b>
<b>Master Effective:</b>	<b>4/19/2002</b>

The Commonwealth of Virginia, Department of Information Technology  
411 East Franklin Street, Suite 500  
Richmond, VA 23219

Dear Philip Pippert,

Thank you for choosing Microsoft Enterprise. Your Microsoft Enterprise Agreement, **01E60387**, has been **amended due to a change in terms and conditions**. This amendment was effective on 05/06/2005.

We would like to remind you that your Enterprise Master and Enrollment Agreement is subject to the terms and conditions of the Microsoft Business Agreement.

If you have any questions, please contact your local Large Account Reseller.

Sincerely,

MICROSOFT LICENSING, GP Worldwide Volume Licensing Operations

To be completed by Microsoft

Microsoft Enterprise Agreement  
Number

01E60387

## AMENDMENT ONE TO THE MICROSOFT ENTERPRISE AGREEMENT

This amendment (“Amendment”) is made and entered into by and between the undersigned for the purpose of amending that certain Microsoft State and Local Government Enterprise Agreement (“Agreement”) identified above between **Commonwealth of Virginia, through its Department of Information Technology** and MSLI, GP. All terms used but not defined in this Amendment will have the meanings assigned to such terms in the Agreement, as amended.

### **I. Modifications to the Agreement.**

1. Subsection 9(c) of the Agreement is hereby amended and restated in its entirety as follows:

***Re-imaging rights.*** If an enrolled affiliate or any affiliate included within its enterprise has licensed products from an original equipment manufacturer (OEM), through a retail source or under any Microsoft program other than this Enterprise Agreement program, it may use copies made from the media provided under the enrolled affiliate’s enrollment in place of any copies made from the media provided through that separate source, so long as it complies with the following restrictions.

- (i) The enrolled affiliate must have obtained a separate license from the separate source for each copy being replaced.
- (ii) The product, language, version and all components (in the case of product suites, such as Office) of the copies made from the media provided under an enrollment must be identical to the product, language, version and all components of the copies they replace.
- (iii) In the case of copies licensed from an original equipment manufacturer (OEM) or through a retail source, in addition to the other conditions outlined in this subsection 9(c), the product type (e.g. upgrade or full license) of the copies made from the media provided under an enrollment must be identical to the product type of the copies they replace. However, an enrolled affiliate may use copies of a desktop operating system made from the media provided under its enrollment in place of copies of the same desktop operating system (*or prior version of such operating system, provided that such prior version must be permitted to be run pursuant to the terms and conditions of the OEM license*) obtained from a separate source, even though they may be of different types (i.e. one may be an upgrade and the other a full license), provided that the product, language and version are *permitted to be run pursuant to the OEM license*.

The use of any copies made under this subsection 9(c) is subject to the terms and use rights provided with the copies being replaced, and nothing in this section creates or extends any warranty or support obligation.

**II. Effect of Amendment.**

Except as specifically amended by this Amendment, all provisions of the Agreement identified above shall remain unchanged and in full force and effect. This Amendment is not legally binding until executed by both parties and shall become effective on the date of signature of the Commonwealth of Virginia, through its Department of Information Technology.. When this amendment is fully executed, you will receive a confirming copy.

You must execute and return two (2) copies of this Amendment to the address below in order for the terms and conditions of this Amendment to apply.

MSLI, GP  
 Attn: Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, NV 89511-1137

<b>Customer:</b> Commonwealth of Virginia, through its Department of Information Technology	<b>Contracting Microsoft Affiliate:</b> MSLI, GP
Name of Customer	Name of contracting Microsoft affiliate
By <u>Ann Sells</u> Ann Sells, Contracts Engineer	By <u>Kim Akins</u> Kim Akins
Name, Title	Name, Title Contract Administrator
Date 8/19/02	Date 8/16/02

Prepared by: David Mills  
 Licensing Executive,  
 Microsoft Corporation  
 Agent for MSLI, GP



# Microsoft Enterprise **Agreement** – State and Local

## CUSTOM

(NOT FOR USE WITH MICROSOFT BUSINESS AGREEMENT)

Enterprise Agreement number  
Microsoft affiliate to complete

**01E60387**

This Microsoft Enterprise Agreement is entered into between the following entities as of the effective date identified below. Each party will notify the other in writing if any of the information in the following table changes.

<b>Customer</b>			
Name of Entity	The Commonwealth of Virginia, Department of Information Technology		Contact Name Ann Sells  (This person handles access to online information. This person also receives notices unless a different contact for notices is provided in the notices section below.)
Street Address	110 South 7th Street		Contact E-mail Address asells@dit.state.va.us
City	Richmond	State/Province VA	Phone (804) 371-5988
Country	USA	Postal Code 23219	Fax (804) 371-5969
			Microsoft Account Manager Name Beth Dehaven
<b>Contracting Microsoft Affiliate</b>			
MSLI, GP - 6100 Neil Road, Suite 210 - Reno, Nevada USA 89511-1137 - Dept. 551, Volume Licensing			

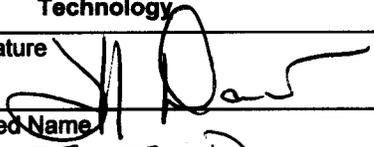
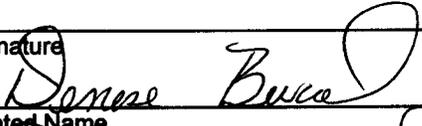
*If notices should be sent to someone or some place other than above, complete the relevant portions below:*

Name of Entity	Contact Name		
Street address	Contact E-mail Address		
City	State/Province	Phone	
Country	Postal Code	Fax	
<b>Notices to Microsoft should be sent to:</b> MSLI, GP 6100 Neil Road, Suite 210 Reno, Nevada USA 89511-1137 Dept. 551, Volume Licensing		<b>Copies should be sent to:</b> Microsoft Law and Corporate Affairs One Microsoft Way Redmond, WA 98052 USA Volume Licensing Group VLG-USA@Microsoft.com (425) 936-7329 fax	

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

**Effective date.** This agreement is not legally binding until executed by both parties and shall become effective on the date of signature of the Commonwealth of Virginia, through the Department of Information Technology. Each enrollment executed hereunder shall not be legally binding until executed by each party thereto and shall become effective on the date of the signature of the applicable enrolling affiliate.

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

<b>Customer</b>	<b>Contracting Microsoft affiliate</b>
Name of Entity The Commonwealth of Virginia, Department of Information Technology	MSLI, GP
Signature 	Signature 
Printed Name Jeff Davis	Printed Name Denise Bevard
Printed Title Contracts Manager	Printed Title Contract Administrator
Signature Date 4-12-02	Signature Date (date Microsoft affiliate countersigns) 4/8/02
Effective Date (may be different than our signature date)	

# **Terms and Conditions**

## **1. Definitions.**

In this agreement, "you" means the entity that has entered into this agreement with us, *which is the Commonwealth of Virginia, through its Department of Information Technology*, and "we" or "us" means the Microsoft entity that has entered into this agreement or an enrollment. In addition, the following definitions apply:

"additional product" means any product other than an enterprise product that an enrolled affiliate chooses to license under its enrollment;

"affiliate" means (a) with regard to you, any government agency, department, instrumentality, division, unit or other office that is supervised by or is part of you, or which supervises you or of which you are a part; together with, as mandated by law, any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality located within your jurisdiction and geographic boundaries, provided that a state and its affiliates shall not, for purposes of this definition, be considered to be affiliates of the federal government and its affiliates; and (b) with regard to us, any legal entity that we own, that owns us, or that is under common ownership with us;

"Aggregate CAL Desktop Count" means the aggregate number of qualified desktops under Enterprise Enrollments associated herewith for which any combination of the following products has been chosen as an enterprise product as of the Open Enrollment Deadline: (i) Microsoft BackOffice Client Access License ("BackOffice CAL"); or (ii) Microsoft Core Client Access License ("Core CAL");

"Aggregate Desktop Count" means the Aggregate CAL Desktop Count, Aggregate Office Desktop Count, and/or Aggregate Windows Desktop Count, as applicable;

"Aggregate Office Desktop Count" means the aggregate number of qualified desktops under Enterprise Enrollments associated herewith for which either (i) Microsoft Office Standard Edition ("Office Standard") or (ii) Microsoft Office Professional Edition ("Office Professional") has been chosen as an enterprise product as of the Open Enrollment Deadline;

"Aggregate Windows Desktop Count" means the aggregate number of qualified desktops under Enterprise Enrollments associated herewith for which the Microsoft Windows Professional desktop operating system has been chosen as an enterprise product as of the Open Enrollment Deadline;

"available" means, with respect to a product, that we have made licenses for that product available for ordering under the Enterprise Agreement program;

"CAL Family" means any of the following enterprise products: (i) BackOffice CAL; and/or (ii) Core CAL;

"enrolled affiliate" means an entity, either you, one of your affiliates, or any outsourcer, that has entered into an enrollment under this agreement;

"enrollment" means the document that you or your affiliate submits under this agreement to sign up for the Enterprise Agreement program and make an initial selection of products;

*"enrollment agreement Number" means the number(s) we assign to each enrollment hereunder.*

"enterprise" means the enrolled affiliate, *unless such enrolled affiliate is an outsourcer*, and the affiliates the enrolled affiliate chooses on its enrollment to include in its enterprise;

"Enterprise Agreement Number" means the number we assign to this Enterprise Agreement.

"enterprise product" means any product that we designate as an enterprise product and that an enrolled affiliate chooses to license under its enrollment (enterprise products may only be licensed on an enterprise-wide basis under the Enterprise Agreement program);

"Initial Desktop" means, with respect to any Enterprise Enrollment, the number of qualified desktops enrolled under such Enrollment as of its effective date;

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

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

“Microsoft BackOffice Client Access License” and “BackOffice CAL” means each of the following Client Access Licenses, when purchased together as a suite: (i) Windows CAL; (ii) Exchange CAL; (iii) SQL CAL; and (iv) SMS CAL;

“Microsoft Core Client Access License” and “Core CAL” means each of the following Client Access Licenses, when purchased together as a suite: (i) Windows CAL; (ii) Exchange CAL; (iii) SharePoint CAL; and (iv) SMS CAL;

“Non-Platform Enrollment” means any Enterprise Enrollment associated herewith which is not a Platform Enrollment;

“Office Family” means either of the following enterprise products: (i) Office Professional; or (ii) Office Standard;

“Open Enrollment Deadline” means the last day of the 11<sup>th</sup> full calendar month following the effective date;

“Open Enrollment Period” means the period which begins on the effective date, and which ends on the Open Enrollment Deadline;

“order” means an order on a form that is acceptable to the reseller;

*“outsourcer” is an entity which is party to an Outsourcer Enterprise Enrollment hereunder, which such party you or an affiliate have engaged either to (i) finance and/or manage the acquisition of certain technology related assets; and/or (ii) manage information technology operations;*

*“Participating Affiliate” means and eligible affiliate which executes an Enterprise Enrollment during the Open Enrollment Period;*

*“Platform Enrollment” means any Enterprise Enrollment associated herewith for which each of the following is a chosen enterprise product:*

- (I) either (i) Office Standard or (ii) Office Professional; and*
- (II) Microsoft Windows Professional desktop operating system; and*
- (III) either (iii) BackOffice CAL or (iv) Core CAL*

*“Post-Deadline Volume Level” means, with respect to a particular Product Family, the price level by which the reference prices for enterprise products in such Product Family, for Enterprise Enrollments executed after the Open Enrollment Deadline, shall be determined as set forth in Section 18(v);*

*“Pre-Deadline Volume Level” means, with respect to a particular Product Family, the price level by which the reference prices for enterprise products in such Product Family, for Enterprise Enrollments executed during the Open Enrollment Period, shall be determined as set forth in Section 18(v);*

“product” means any product available to your enrolled affiliates for license as described on the Product List;

“Product Family” means any of the following collections of enterprise products, as defined in Section 18(v): (i) Office Family; (ii) Windows Family; and/or (iii) CAL Family;

“Product List” means, with respect to any licensing program, the statement published by Microsoft from time to time that identifies the products that are or may be made available under each of the volume licensing programs, and identifies which products are available to Enterprise Agreement program customers and any product-specific conditions or limitations on the acquisition of licenses for those products;

“qualified desktop” means any personal desktop computer, portable computer, workstation or similar device that is used by or for the benefit of an enrolled affiliate or any affiliate included in its enterprise and that meets the minimum requirements for running any of the enterprise products. Qualified desktops do not include: (i) any computer that is designated as a server and not used as a personal computer, (ii) any system dedicated to run ONLY line-of-business software (e.g., an accounting or bookkeeping program used by an accountant, or a computer-aided design program used by an engineer or architect); or (iii) any system running an embedded operating system (e.g. Windows 9.x for embedded, Windows XP embedded);

“renewal order” means the order that an enrolled affiliate submits at the beginning of any renewal term to renew Software Assurance coverage for products previously ordered under its enrollment;

“reseller” means a large account reseller authorized by us to resell licenses in an enrolled affiliate’s area under the Enterprise Agreement program;

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

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

“Windows Family” means the following enterprise product” Microsoft Windows Professional desktop operating system.

## **2. How the Enterprise Agreement program works.**

The Enterprise Agreement program gives customers that wish to license one or more of Microsoft’s platform products across their enterprise the means to ensure that their entire enterprise will be licensed. You and your affiliates, *or outsourcers on behalf of you or your affiliates*, can participate in this program by submitting one or more enrollments under this agreement. On the enrollment, the enrolled affiliate will designate the scope of its enterprise and make the initial selection of enterprise products and any additional products it wishes to license. Each enrollment must include at least one of those products that we make available to license as an enterprise product. We may reasonably refuse to accept an enrollment.

*We will assign an Enterprise Agreement Number and notify you of such number upon execution of this Enterprise Agreement, and will assign separate Enrollment Agreement Numbers and notify the applicable enrolled affiliate after the execution of each enrollment. Each enrolled affiliate, including outsourcers who are deemed to be enrolled affiliates pursuant to Microsoft State and Local Government Enterprise Outsourcer Enrollments hereto, shall be responsible for compliance with the terms of this agreement and the compliance of the enrolled affiliate’s respective sublicenses, only with respect to the enrolled affiliate(s) enrollment. However, neither you nor any affiliate shall be responsible for compliance with any enrollments to which you or such affiliate is not a party or under which you or such affiliate does not participate. Notwithstanding the foregoing, outsourcers shall be solely responsible for both their own compliance, and the compliance of the participating affiliates for which they perform work, with respect to an Outsourcer Enrollment.*

- a. Establishing price levels.** Each product is assigned to one of the following pools: applications, systems or servers. An enrolled affiliate’s reference prices are based on the “price level” for which it qualifies in each individual product pool. *During the first 36 full calendar months following the effective date hereof, price levels are established pursuant to the terms and conditions of subsection 18(v) below. After such 36-month period, provided both that (i) this agreement is extended beyond that term as provided herein, and (ii) the parties have not otherwise by that time agreed upon statewide pricing for such extended term, price levels will be established separately for each enrollment as described in this subsection.*

**Product pools from which an enterprise product has been ordered.** For each product pool from which an enrolled affiliate orders an enterprise product, the price level throughout the initial term of the enrollment for any enterprise products or additional products ordered from that pool

will be the price level for which the enrolled affiliate qualifies based *either on the terms and conditions of subsection 18(v) during the first 36 full calendar months following the effective date hereof, or thereafter (if this agreement is extended)* on its initial number of qualified desktops (the enrolled affiliate will be provided with a table in its enrollment to determine its initial price level).

**Renewal price levels.** *For renewal enterprise agreements signed during the first 36 full calendar months following the effective date, price levels for pools for which an enterprise product has been ordered will be determined by the terms and conditions of subsection 18(v). Thereafter, provided both that (i) this agreement is extended beyond that term as provided herein, and (ii) the parties have not otherwise by that time agreed upon statewide pricing for such extended term, price levels for pools from which an enterprise product has been ordered will be reset for each renewal term based upon the enrolled affiliate's total number of qualified desktops as of the date of the renewal order for that renewal term.*

**b. Deriving prices from price levels.** The enrolled affiliate's reference prices are determined as follows.

**For products covered by the initial order.** For each product covered by an enrolled affiliate's initial order, the enrolled affiliate's reference price for all copies of that product made at any time during the initial enrollment term (including copies ordered by true up as described in subsections 3(c) (Placing annual "true up" orders to account for additional desktops) and 4(c) (Placing annual "true up" orders to account for additional copies)) will be provided in the enrollment and will not change throughout the initial enrollment term.

**For additional products added after the initial order.** For each new additional product first added after signing of the enrollment, the enrolled affiliate's reference price for all copies of that product made at any time during the initial enrollment term (including copies ordered by true up) will be that price (including the true up price) in effect for the enrolled affiliate's price level for that product as of the date of its first order for that product.

**For products renewed in a renewal order.** Prices are re-established at the beginning of each renewal term. For each enterprise product and each additional product being renewed, the enrolled affiliate's renewal price for all copies of that product made during the renewal term (including copies ordered by true up) will be the price (including the true up price) in effect for the enrolled affiliate's renewal price level for that product as of the date of the renewal order.

**For additional products added during a renewal term.** For each new additional product first added during a renewal term, the enrolled affiliate's reference price for all copies of that product made at any time during that particular renewal term (including copies ordered by true up) will be the price (including the true up price) in effect for the enrolled affiliate's renewal price level in effect for that product as of the date of the enrolled affiliate's first order for that product.

**How your enrolled affiliates acquire licenses.** An enrolled affiliate will acquire its licenses by executing an enrollment under which it acquires its licenses through its chosen reseller. Orders under an enrollment will be made out to and submitted to the enrolled affiliate's reseller. We will invoice that reseller according to the terms in the applicable enrollment. While such enrollment will contain reference prices, the reseller and the enrolled affiliate will determine the enrolled affiliate's actual price and payment terms. *Nothing in this agreement shall be construed to require that any entity, other than the entity which is identified in the "bill-to" section on a purchase order to the applicable reseller, shall be responsible for payment to its reseller pursuant to such purchase order.*

**c. Choosing and maintaining a reseller.**

**Resellers.** Each enrolled affiliate that signs an enrollment must choose and maintain a reseller in the enrolled affiliate's area. Resellers are authorized to resell our product licenses, but act independently and have no authority to bind us.

**Change of reseller.** If an entity ceases to be a reseller, the enrolled affiliate must choose a replacement. *We will notify you in writing if we discontinue the reseller's authority to resell licenses under this program.* To change its reseller, an enrolled affiliate must notify us and the former reseller in writing, on a form that we provide, at least 30 days prior to the date on which the change is to take effect (the "reseller change date"). *All payments billable prior to such reseller change date shall be paid to the former reseller. For example, if less than 30 days notice of intent to change reseller is given prior to an anniversary of an enrollment, then such anniversary's annual payment shall be paid to the former reseller.* In the case of a change of reseller, each enrolled affiliate is responsible for ensuring that all its obligations to the former reseller are met.

- d. Reporting country of use.** You represent that all licenses ordered hereunder will be used in the United States.

### **3. How to order enterprise product licenses.**

- a. Placing the initial order.** Each enrolled affiliate must submit an initial order for the enterprise products it selects on its enrollment. Except as provided in the following paragraph, the order must be for L&SA for all enterprise products.

**When is the enrolled affiliate eligible to order only Software Assurance for an enterprise product?** An enrolled affiliate may submit a renewal order for Software Assurance for the enterprise products it selects without the need to simultaneously order a License if the enrolled affiliate or any of the affiliates in its enterprise have obtained perpetual licenses for that product on an enterprise-wide basis under a previous "Enterprise Enrollment" (defined below), and the renewal order is submitted no later than 30 days after the previous enrollment term expired, pursuant to the terms and conditions of Section 11(e) below. The Software Assurance order must be for the number of qualified desktops covered as of the expiration of that "Enterprise Enrollment." For all other qualified desktops included in an enrollment submitted under this agreement, the enrolled affiliate must order L&SA.

The term "Enterprise Enrollment," as used in this section 3, means (i) a Microsoft Enterprise Select Agreement; (ii) an enterprise enrollment under a separate Microsoft Select Master Agreement or Microsoft Enterprise Agreement; (iii) any enterprise subscription enrollment entered into under a separate Microsoft Enterprise Subscription Agreement; or (iv) any other enrollment submitted under the Microsoft Enterprise Agreement identified on the cover page.

- b. Adding new enterprise products.** An enrolled affiliate may only add new enterprise products by entering into a new enrollment.
- c. Placing annual "true up" orders to account for additional desktops.** Each enrolled affiliate must determine the current number of qualified desktops in its enterprise: (i) at each anniversary of the effective date of its enrollment (including anniversaries during any renewal); and, (ii) at the expiration or early termination of its enrollment.
- **If the desktop count has increased.** If the number of qualified desktops has increased, the enrolled affiliate must submit an order for L&SA covering those additional desktops. The enrolled affiliate must place the order within 15 days following the anniversary of the enrollment effective date, expiration or termination.
  - **If the desktop count has not increased.** If the number has not increased, the enrolled affiliate must submit an update statement confirming this fact on the form we provide within that 15-day period.
- d. Reorganizations, Consolidations, and Privatizations.** If the number of qualified desktops in an enterprise changes by more than ten percent as a result of an reorganization, consolidation, or privatization, we will work with the enrolled affiliate in good faith to determine how to accommodate its changed circumstances in the context of this agreement. If an enrolled affiliate consolidates with a customer with an existing "Enterprise Enrollment," we will work with

the enrolled affiliate in good faith to accommodate its changed circumstances in the context of this agreement.

#### **4. How to order additional product licenses.**

- a. Placing the initial order.** Each enrolled affiliate must submit an initial order for the additional products it has selected, if any, on its enrollment. Except as provided in the following paragraph, the order must be for L&SA for all copies of those additional products.

**When is the enrolled affiliate eligible to order only Software Assurance for an additional product?** An enrolled affiliate may order Software Assurance for additional products it selects without the need to simultaneously order a License if the enrolled affiliate or any of the affiliates it includes in its enterprise has obtained perpetual licenses for those products with Upgrade Advantage, Software Assurance or any similar upgrade protection, and the new enrollment becomes effective no later than one day following the expiration of that upgrade protection. The order may be for up to the number of copies covered by such upgrade protection. An enrolled affiliate may also order Software Assurance alone in any other circumstances expressly permitted in the Product List. For all other copies included in an enrollment submitted under this agreement, the enrolled affiliate must order L&SA.

- b. Adding new additional products not previously ordered.** Each enrolled affiliate may, during the remainder of the applicable initial enrollment or renewal term, run new additional products under its enrollment that were not part of the initial order. To do so, the enrolled affiliate must order L&SA in the month in which the product is first run, covering all copies of that product run as of the date of the order. For any additional copies of that product run after the date of that order, the enrolled affiliate must submit orders as described in subsection 4(c) (Placing annual "true up" orders to account for additional copies) below.
- c. Placing annual "true up" orders to account for additional copies.** Each enrolled affiliate may, during the remainder of the applicable initial enrollment or renewal term, run additional copies of those additional products it previously ordered under subsections (a) and (b), provided that the enrolled affiliate places a true up order for L&SA for those additional copies. The enrolled affiliate must submit an order within 15 days after the next anniversary of the effective date of the enrollment (including anniversaries occurring during any renewal) following the date on which those copies were first run. For additional copies first run in the year in which an enrollment expires or is terminated, the enrolled affiliate must submit an order within 15 days following the expiration or termination date.
- d. Update statements.** Each enrolled affiliate must submit an update statement within 15 days following each anniversary of the effective date of its enrollment, and after expiration or termination of its enrollment, on a form we provide, unless that enrolled affiliate (i) is running only enterprise products under its enrollment, and (ii) it is not otherwise required to submit an update statement under subsection 3(c) (Placing "true up" orders to account for additional desktops) above.

#### **5. How to confirm orders.**

We will publish information about orders placed by each enrolled affiliate, including an electronic confirmation of each order, on a secure site on the World Wide Web at <http://licensing.microsoft.com> or a successor site that we identify *in writing*.

#### **6. License grant – what your enrolled affiliates are licensed to run.**

Upon our acceptance of the enrollment, the enrolled affiliate has the following rights during the term of its enrollment.

- **For enterprise products.** The enrolled affiliate may run one copy of the latest version (or any prior version) of each enterprise product, on each qualified desktop. By including affiliates in its

enterprise, the enrolled affiliate sublicenses this right to each of them subject to the terms of this agreement.

- **For additional products.** The enrolled affiliate may run the number of copies of each additional product ordered in the latest version (or any prior version). If an affiliate included in any enrolled affiliate's enterprise runs any copies of an additional product under this agreement, those copies are sublicensed from that enrolled affiliate subject to the terms of this agreement.

The right to run any product licensed under an enrollment is temporary until:

- (i) the enrolled affiliate has paid all installments of the price for that product license and the applicable initial enrollment or renewal term during which that product license was ordered has expired or been renewed, or
- (ii) the enrolled affiliate is otherwise entitled to perpetual licenses upon early termination as provided in subsection 11(c) (Termination of an enrollment).

Thereafter, the enrolled affiliate will have perpetual licenses to run the latest version available as of such date of expiration, renewal or termination (or any prior version), of each enterprise product in a number of copies equal to the total number of qualified desktops covered by the enrollment; and each additional product in the number of copies ordered during the applicable initial enrollment term or renewal term. In the case of early termination as provided in subsection 11(c) (Termination of an enrollment), if an enrolled affiliate chooses only to pay amounts due and payable as of the termination date, then the enrolled affiliate will instead have perpetual licenses for the number of copies specified in subsection 11(d) (Effect of termination or expiration).

Any perpetual licenses received through Software Assurance supersede and replace the underlying perpetual licenses for which that Software Assurance coverage was ordered. All perpetual licenses acquired under this agreement remain subject to the terms of this agreement and the applicable product use rights.

This agreement, the applicable enrollment, the enrolled affiliate's order confirmation described in section 5 (How to confirm orders) above, and any documentation evidencing transfers of licenses as described in subsection 10(a) (How to transfer), together with proof of payment, will be the enrolled affiliate's evidence of all licenses obtained under its enrollment.

## **7. How to know what product use rights apply.**

Except as otherwise described below, an enrolled affiliate's use of any product that it licenses from us is governed by product use rights specific to each product and version. The product use rights applicable to products licensed under each enrollment are as follows.

- a. For latest versions available as of an enrollment effective date.** For the latest version of any product available on or before the enrollment effective date, the product use rights in effect on the enrollment effective date for that product and version apply.
- b. For versions and products that become available after an enrollment effective date.** For any version of any existing product, or any new product, first made available after the enrollment effective date, the product use rights in effect on the date on which the version or product first becomes available apply (subject to our commitment on use rights below).
- c. For versions of a product that predate the latest version available as of an enrollment effective date.** If an enrolled affiliate is using a version of any product licensed under its enrollment that became available prior to the version that was current on the enrollment effective date, the enrolled affiliate's use of the earlier version will be governed by the product use rights for the latest version of such product available at the time of order.
- d. Microsoft's commitment on use rights.**

**For all products – use rights fixed by version.** We will not change an enrolled affiliate's product use rights under this agreement for any version of a product after it becomes available to that enrolled affiliate under its enrollment.

**For enterprise products – no detrimental use right changes in new versions.**

- (i) **For new versions made available during the initial enrollment term.** If we make available a new version of any enterprise product during the initial enrollment term and that new version is subject to certain use rights that are more restrictive than those that applied to a prior version under an enrollment that was or became available during the initial enrollment term, the enrolled affiliate may run that new version without being subject to those certain more restrictive use rights.
- (ii) **For new versions made available during each renewal term.** Upon each renewal of Software Assurance for an enterprise product, an enrolled affiliate's use of that product will be governed by the use rights that apply to the latest version of that product available as of the date of that renewal, including any terms that are more restrictive than those that applied to a previous version of that product licensed by that enrolled affiliate under its enrollment during the preceding term. However, if during a renewal term we make available a new version of that same enterprise product with certain use rights more restrictive than those use rights that applied to a prior version licensed under an enrollment that was or became available during that same term, the enrolled affiliate may run the new version without being subject to those certain more restrictive use rights.
- (iii) **New features or functionality.** The right described in subsections (i) and (ii) above does not apply to product use rights that relate specifically to new features or functionality added to a new version.

We will provide each enrolled affiliate with a copy of the applicable product use rights or will make them available either by publication on the World Wide Web at a site we identify *to you in writing* or by some other reasonable means. You acknowledge that you and your affiliates have access to the World Wide Web. We do not transfer any ownership rights in any licensed product, and we reserve all rights not expressly granted. In lieu of your obligation to indemnify us under various provisions of the product use rights, you will be responsible for any cost or damages arising from any claim to which your indemnity obligation would otherwise apply.

## **8. Software Assurance Membership.**

Throughout the term of its enrollment (including any renewal), each enrolled affiliate automatically qualifies as a member of Microsoft's Software Assurance Membership program. Membership may entitle the enrolled affiliates to special benefits. For a description of these benefits, an enrolled affiliate should consult its reseller or Microsoft account manager.

## **9. Making copies of software.**

- a. Copies necessary for internal deployment.** Each enrolled affiliate may make as many copies of the products licensed under its enrollment as necessary to distribute the products to the users within its enterprise. All copies of any product must be true and complete copies (including copyright and trademark notices) and be made from CD-ROMs, disk sets or a network source, acquired from or made available by a Microsoft approved fulfillment source for that product. Each enrolled affiliate may also have a third party make and distribute copies in its place, but the enrolled affiliate is responsible for third-party actions to the same extent it would be if the third party were its employee. *For the purposes of this Section 6, a third party is any party other than MSLI, GP or its assignee.* You and your affiliates must make reasonable efforts to make employees, agents and other individuals running a product aware that the product is licensed from us and may only be run or transferred subject to the terms of this agreement.

- b. Copies for training, evaluation and back-up.** During the term of its enrollment (including any renewal), each enrolled affiliate and any affiliate included in its enterprise may (i) run up to 20 complimentary copies of any additional product in a dedicated training facility on their premises; (ii) run up to 10 complimentary copies of any product that we make available to license as an additional product for a 60-day evaluation period; and (iii) make and retain one complimentary copy of any licensed product for back-up or archival purposes for each of their distinct geographic locations.
- c. Re-imaging rights.** If an enrolled affiliate or any affiliate included within its enterprise has licensed products from an original equipment manufacturer (OEM), through a retail source or under any Microsoft program other than this Enterprise Agreement program, it may use copies made from the media provided under the enrolled affiliate's enrollment in place of any copies made from the media provided through that separate source, so long as it complies with the following restrictions.
- (i) The enrolled affiliate must have obtained a separate license from the separate source for each copy being replaced.
  - (ii) The product, language, version and all components (in the case of product suites, such as Office) of the copies made from the media provided under an enrollment must be identical to the product, language, version and all components of the copies they replace.
  - (iii) In the case of copies licensed from an original equipment manufacturer (OEM) or through a retail source, in addition to the other conditions outlined in this subsection 9(c), the product type (e.g. upgrade or full license) of the copies made from the media provided under an enrollment must be identical to the product type of the copies they replace. However, an enrolled affiliate may use copies of a desktop operating system made from the media provided under its enrollment in place of copies of the same desktop operating system obtained from a separate source, even though they may be of different types (i.e. one may be an upgrade and the other a full license), provided that the product, language and version are identical.

The use of any copies made under this subsection 9(c) is subject to the terms and use rights provided with the copies being replaced, and nothing in this section creates or extends any warranty or support obligation.

## **10. Transferring licenses.**

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

For all other transfers of licenses, our written consent is required. We will not withhold our consent unreasonably. No license transfer will be valid unless the transferee accepts in writing the applicable product use rights, use restrictions, limitations of liability, and the transfer restrictions in this section 10. Any transfer made in violation of the requirements or restrictions of this section will be void.

- b. When transfers are not permitted.** An enrolled affiliate may not transfer (i) licenses on a short-term basis (*except as otherwise agreed upon in writing by both parties*), (ii) temporary rights to use products, (iii) Software Assurance coverage, (iv) perpetual licenses for any version of any product acquired through Software Assurance separately from the underlying perpetual licenses for which that Software Assurance coverage was ordered; or (v) upgrade licenses for a desktop operating system product separately from the underlying desktop operating system license or from the computer system on which the product is first installed.

## **11. Term, termination and renewal.**

- a. Term.** *Provided that it has been executed by both you and us, this agreement will remain in effect for 36 full calendar months following the effective date unless it is terminated by either party as described below. Each enrollment will have the term provided in that enrollment.*
- b. Termination of this agreement.** *This agreement may either be terminated prior to the end of the 36<sup>th</sup> full calendar month following its effective date, or may be extended to expire upon a later date, provided that both parties agree in writing to such termination or expiration. If either (i) only one enrollment is executed hereunder and we terminate such enrollment for cause; or (ii) more than one enrollment is executed hereunder and we terminate two or more such enrollments for cause, then we may also terminate this agreement.*

**Effect of termination.** Such termination will merely terminate either party's and its affiliates' ability to enter into new enrollments under this agreement. Such termination will not affect any enrollment not otherwise terminated, and any terms of this agreement applicable to any enrollment not otherwise terminated will continue in effect with respect to that enrollment.

- c. Termination of an enrollment.** *Either party to an enrollment may terminate it if the other party materially breaches its obligations under this agreement, including any obligation to submit orders or pay amounts owed (even if such non-payment is caused by non-appropriation of funds). If we terminate an enrollment, we may also terminate this agreement and all other enrollments under it. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days notice and opportunity to cure. If we give such notice to an enrolled affiliate, we will give you a copy of that notice as well. If an enrolled affiliate ceases to be your affiliate, you must promptly notify us of this fact, and we may terminate its enrollment.*
- d. Effect of termination or expiration.** *Upon expiration or termination of any enrollment, the enrolled affiliate must order licenses for all copies of products it or its affiliates have run under its enrollment for which the enrolled affiliate has not previously submitted an order. Except as provided in the next paragraph, in the event of termination, all unpaid installments of the purchase price for any licenses will immediately become due and payable, and the enrolled affiliate will be entitled to perpetual licenses only after all such payments have been made.*

*If (i) an enrolled affiliate terminates its enrollment as a result of our breach, (ii) we terminate an enrolled affiliate's enrollment because it has ceased to be your affiliate, or (iii) we terminate an enrollment for non-payment due to non-appropriation of funds, then the enrolled affiliate will have the following options. It may immediately pay the total remaining amount due, including all installments, in which case the enrolled affiliate will have perpetual licenses for all copies of the products it has ordered. As an alternative, in the event of non-appropriation of funds, it may elect not to make those payments for which funds were not appropriated, in which case both of the following shall apply: (a) the enrolled affiliate will have perpetual licenses for (i) all copies of all products for which payment has been made in full, and (ii) the number of copies of products for which payment has been made in installments that is proportional to the amount that has been paid as of the termination date' and (b) the enrolled affiliate shall immediately cease running those copies of products for which it has not received a perpetual license.*

- e. How to renew an enrollment.** *We will provide each enrolled affiliate with 60 days prior written notice of expiration of its enrollment or renewal term advising it of its renewal options. An enrolled affiliate may have the option to renew its enrollment for successive terms of 12 or 36 full calendar months. We and our affiliates will not unreasonably reject any renewal order. However, we may make a change to the Enterprise Agreement program that will make it necessary for you and your enrolled affiliates to enter into new agreements and enrollments. If a new agreement and/or enrollment is needed for such renewal order, then the effective date of such renewal agreement and/or enrollment must be no later than one day following the expiration of the original agreement and/or enrollment, even if such agreement and/or enrollment is executed later than such effective date.*

**Placing renewal orders.** To renew, the enrolled affiliate must submit a renewal order within 30 days after the previous term expired. The renewal order must be for Software Assurance for (i) all enterprise products previously ordered for all qualified desktops in the enrolled affiliate's enterprise as of the date of each renewal order, and (ii) all copies of additional products for which the enrolled affiliate elects to renew Software Assurance. An enrolled affiliate may not add new enterprise products not previously ordered during the initial term as part of its renewal; to license new enterprise products it must submit a new enrollment.

**Consequences of non-renewal.** If the enrolled affiliate elects not to renew its enrollment or Software Assurance for any additional product under its enrollment, and it otherwise allows Software Assurance for any copies of any products licensed under its enrollment to lapse, then the enrolled affiliate will not be permitted to order Software Assurance for such copies later without first acquiring L&SA.

## **12. Restrictions on use.**

*You and your affiliates* may not:

- Separate the components of a product made up of multiple components (in the case of product suites, such as Office) by running them on different computers, by upgrading or downgrading them at different times, or by transferring them separately, except as otherwise provided in the product use rights;
- Rent, lease, lend or host products *to third parties*, except where we agree by separate agreement;
- Reverse engineer, de-compile or disassemble products, except to the extent expressly permitted by applicable law despite this limitation; or
- Transfer licenses to, or sublicense, products to the U.S. Government.

Products licensed under this arrangement are of US-origin unless otherwise indicated by us. *You and your affiliates* agree to comply with all applicable international and national laws that apply to these products, including the U.S. Export Administration Regulations, as well as end-user, end-use and country destination restrictions issued by U.S. and other governments. For additional information on exporting Microsoft products, see <http://www.microsoft.com/exporting/>.

## **13. Confidentiality.**

*The terms and conditions of this agreement may be posted on the Commonwealth of Virginia's website.*

## **14. Warranties.**

- Limited product warranty.** We warrant that each version of a product will perform substantially in accordance with our user documentation. This warranty is valid for a period of 90 days from the date *you or an affiliate* first runs a copy of the version. To the maximum extent permitted by law, any warranties imposed by law concerning the products are limited to the same extent and the same 90-day period. This warranty does not apply to components of products that *you and your affiliates are* permitted to redistribute under applicable product use rights, or if failure of the product has resulted from accident, abuse or misapplication. If *you or an enrolled affiliate* notify us within the warranty period that a product does not meet this warranty, then we will, at our option, either (i) return the price paid for the product or (ii) repair or replace the product. To the maximum extent permitted by law, this is your exclusive remedy (*and your affiliates' exclusive remedy*) for any failure of any product to function as described in this subsection.
- NO OTHER WARRANTIES.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM AND EXCLUDE ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, OTHER THAN THOSE IDENTIFIED

EXPRESSLY IN THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PRODUCTS OR RELATED MATERIALS. WE WILL NOT BE LIABLE FOR ANY SERVICES OR PRODUCTS PROVIDED BY THIRD PARTY VENDORS, DEVELOPERS OR CONSULTANTS IDENTIFIED OR REFERRED TO YOU AND YOUR AFFILIATES BY US UNLESS SUCH THIRD-PARTY PRODUCTS OR SERVICES ARE PROVIDED UNDER WRITTEN AGREEMENT BETWEEN YOU AND US, AND THEN ONLY TO THE EXTENT EXPRESSLY PROVIDED IN SUCH AGREEMENT.

## **15. Defense of infringement claim.**

We will defend you *and your enrolled affiliates* against any claim by an unaffiliated third party that any product infringes its patent or copyright, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent) *to the applicable affiliate(s) to which such judgment applies*, subject to subsection 16(a) below. You *or the applicable enrolled affiliate* must notify us promptly in writing of the claim and, *to the extent permitted by applicable law of the Commonwealth of Virginia*, give us sole control over its defense or settlement. You *and your enrolled affiliates* agree to provide us with reasonable assistance in defending the claim, and we will reimburse you *and or the applicable enrolled affiliates* for reasonable out of pocket expenses that you *and they* incur in providing that assistance.

Our obligations will not apply to the extent that the claim or adverse final judgment is based on (i) your *or an affiliate's*) running of the product after we notify you to discontinue running (*and notify your affiliates to stop running*) due to such a claim; (ii) your (or your affiliate(s)') combining the product with a non-Microsoft product, data or business process; (iii) use of, or access to, the product by any person or entity other than an employee of you or one of your affiliates; or (iv) your (*or your affiliates'*) altering the product. *The applicable enrolled affiliate(s)* will be responsible for any costs or damages that result from these actions.

If we receive information concerning an infringement claim related to a product, we may, at our expense and without obligation to do so, either (i) procure for you *and your enrolled affiliates* the right to continue to run the allegedly infringing product, or (ii) modify the product or replace it with a functional equivalent, to make it non-infringing, in which case you *and your enrolled affiliates* will stop running the allegedly infringing product immediately. If, as a result of an infringement claim, your use (*or an enrolled affiliate's use*) of a product is enjoined by a court of competent jurisdiction, we will use commercially reasonable efforts to either procure the right to continue its use, replace it with a functional equivalent, or modify it to make it non-infringing.

If any other type of third party claim is brought against you *or an affiliate* regarding our intellectual property, you *or such affiliate* must notify us promptly in writing. *Subject to the terms of section 18(s)*, We may, at our option, choose to treat these claims as being covered by this section.

## **16. Limitation of liability.**

- a. Limitation.** There may be situations in which you or *one or more* affiliates have a right to claim damages or payment from us. Except as otherwise specifically provided in this subsection, whatever the legal basis for the claims, our liability will be limited, to the maximum extent permitted by applicable law, to direct damages up to *100%* of the amount you or such affiliate(s) have paid for the product giving rise to the claims. In the case of our responsibilities with respect to third-party patent or copyright infringement claims, our obligation to defend such claims will not be subject to the preceding limitation, but our liability to pay damages awarded in any final adjudication (or settlement to which we consent) will be. In the case of free product or code you or an enrolled affiliate are authorized to redistribute to third parties without separate payment to Microsoft, our total liability to you or the enrolled affiliate will not exceed US\$5000.

- b. No liability for certain damages.** To the maximum extent permitted by applicable law, neither party nor any of its affiliates or suppliers will be liable *to the other party* for any indirect damages (including, without limitation, consequential, special or incidental damages, damages for loss of profits or revenues, business interruption, or loss of business information) arising in connection with any agreement, product or service, even if advised of the possibility of such damages or if such possibility was reasonably foreseeable. This exclusion of liability does not apply to either party's liability to the other for violation of the other party's intellectual property rights.
- c. Application.** The limitations on and exclusions of liability for damages in this agreement apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory.

## **17. Verifying Compliance.**

Each enrolled affiliate must keep records relating to the products *it* and any affiliate(s) *to which it sublicenses or transfers licenses* run. We have the right to verify compliance, at our expense, during the term of this agreement and for a period of one year thereafter. To do so, we will engage an independent accountant from a nationally recognized public accounting firm, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 15 days notice, during normal business hours and in a manner that does not interfere unreasonably with your operations. As an alternative, we may require *an enrolled affiliate* to accurately complete our self-audit questionnaire relating to the products *it* and any affiliates use. If verification or self-audit reveals unlicensed use of products, *the applicable enrolled affiliate* must promptly order sufficient licenses to permit all product usage disclosed. If material unlicensed use is found (license shortage of 5% or more), *the applicable enrolled affiliate* must reimburse us for the costs we have incurred in verification and acquire the necessary additional licenses *at the then-current non-discounted reference price for such licenses* within 30 days. If we undertake such verification and do not find material unlicensed use of products, we will not undertake another verification of the same entity for at least one year. We and our auditors will use the information obtained in compliance verification only to enforce our rights and to determine whether you *or your affiliates* are in compliance with the terms of this agreement. By invoking the rights and procedures described above, we do not waive our rights to enforce this agreement or to protect our intellectual property by any other means permitted by law.

## **18. Miscellaneous.**

- a. Notices.** All notices, authorizations, and requests given or made in connection with this agreement must be sent by post (*prepaid certified mail*), or express courier, *but not by facsimile or email* to the addresses and numbers indicated in the applicable cover page to this agreement. Notices will be deemed delivered on the date shown on the postal return receipt or on the courier confirmation of delivery.
- b. Assignment.** This agreement may be assigned by either party only to an affiliate, but assignment will not relieve the assigning party of its obligations under the assigned agreement. If either party assigns this agreement or any enrollment, it must notify the other party of the assignment in writing.
- c. Severability.** If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend this agreement to give effect to the stricken clause to the maximum extent possible.
- d. Waiver.** No waiver of any breach of this agreement shall be a waiver of any other breach, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.
- e. Force Majeure.** To the extent that either party's performance is prevented or delayed, either totally or in part, for reasons beyond that party's control, then that party will not be liable, so long

as it resumes performance as soon as practicable after the reason preventing or delaying performance no longer exists.

- f. Note on Java Support.** The products may contain support for programs written in Java. Java technology is not fault tolerant and is not designed, manufactured, or intended for use or resale as online control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of Java technology could lead directly to death, personal injury, or severe physical or environmental damage. *Sun Microsystems, Inc. has contractually obligated Microsoft to make this disclaimer.*
- g. Limitations on actions.** Except for any different period required by applicable law, any action arising under this agreement must be brought within two years from the date that the cause of action arose.
- h. Entire agreement.** The documents identified on the cover page to this agreement constitute the entire agreement concerning the subject matter and supersede any prior or contemporaneous communications. The terms of these documents control in the following order: (i) these terms and conditions (*including any amendments hereto in reverse order of execution*), and the accompanying cover page (except under circumstances where an outsourcer enrollment is used, in which case the terms of the outsourcer enrollment control over these terms and conditions); (ii) the Product List; (iii) the product use rights; and (iv) all other enrollments under this agreement. The terms of any purchase order or any general terms and conditions you or your affiliates maintain, other than those mandatory terms required by statute or regulation, do not apply. This agreement (except the product use rights and the Product List) can be changed only by an amendment signed by *an authorized representative of both parties.*
- i. Survival.** Provisions regarding product use rights, restrictions on use, evidence of perpetual licenses, transfer of licenses, warranties, limitations of liability, compliance verification and obligations on termination or expiration will survive termination or expiration of this agreement or any enrollment.
- j. Independent contractors.** Resellers are independent contractors who act in their own name and for their own account; they have no authority to bind or impose any obligation or liability upon us.
- k. Applicable law; Dispute resolution.** *This agreement and all enrollments related hereto shall be interpreted in accordance with and governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. MSLI, GP shall comply with all applicable federal, state, and local laws.*
- l. Copyright Violation.** Except to the extent an enrolled affiliate is licensed under this agreement, such enrolled affiliate will be responsible for its violation of our copyright in the products, including payment to its reseller of license fees specified in this agreement for unlicensed use.
- m. Non-appropriation.** *All payment obligations under this contract are subject to both (i) the availability of legislative appropriation for this purpose, and (ii) such funds being made legally available for payment. In the event of non-appropriation of funds by the Legislature, or of such funds not being made legally available for the purchase of items under this contract, then the Commonwealth may cancel its purchase order for the remaining payments for those goods (software) for which funds have not been appropriated or made legally available for payment, subject to the terms and conditions of Sections 6 and 11(d). You or the enrolled affiliate, as applicable, agree to provide written notice to us as soon as possible after legislative action is completed.*
- If any purchases are to be supported by federal funding, and such funding is not made available, then the Commonwealth may cancel its purchase order for the remaining payments for those goods (software) goods dependent on such federal funds without further obligation, subject to the terms and conditions of Section 6.*

- n. **Contractual records.** We shall make all contractual books and records and other documents relating to matters under this Enterprise Agreement available to the Commonwealth and its designated agents for purposes of audit and examination for a period of five years after final payment.

*Contractual records include, but are not limited to, this Agreement, attachments hereto, and modifications hereto.*

- o. **Non-Visual Access to Technology.** All information technology which, pursuant to this agreement, is purchased or upgraded by or for the use of any state agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this agreement:

- (i) *Effective, interactive control and use of the Technology shall be readily achievable by non-visual means;*
- (ii) *The Technology equipped for non-visual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user for the Technology interacts.*
- (iii) *Non-visual access technology shall be integrated into any networks used to share communications among employees, program participants or the public: and*
- (iv) *The technology for non-visual access shall have the capability of providing equivalent access by non-visual means to telecommunications or the other interconnected network services used by persons who are not blind or visually impaired.*

*Compliance with the foregoing non-visual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with non-visual access because the essential elements of the Technology are visual and (ii) non-visual equivalent is not available.*

*Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data used for the manipulation and presentation of information shall permit the installation and effective use of non-visual access software and peripheral devices.*

*If requested in writing, we will provide a detailed explanation of how compliance with the forgoing non-visual access standards is achieved and a validation of concept demonstration.*

*The requirements of this paragraph shall be construed to achieve full compliance with The Information Technology Access Act 2.2-3500 through 2.2-3504 of the Code of Virginia.*

- p. **Non-Visual Access Compliance.** We expressly acknowledge that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments including those outlined in section 18(o) above. Accordingly, we represent and warrant to the Commonwealth of Virginia that the technology provided to the Commonwealth for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: (1) providing equivalent access for effective use by both visual and non-visual means; (2) presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

*The Commonwealth agrees to provide us with written notice of any claim of non-compliance of one or more products (products) with respect to this Section 18(p), and shall allow us 60 days from the date of such notification in which to cure such non-compliance. Provided that the we are unable to cure such non-compliance within set timeframe, the Commonwealth's sole remedy for our breach of this Section 18(p) shall be to receive from us a credit against future license fees equal to the depreciated value of the product Licenses obtained under this Select Agreement for non-compliant products. Upon receipt of such credit, you shall discontinue use of such products, and the licenses for individual copies of such products shall become null and void. This provision shall not be construed to cause the licenses for an entire product line, or all copies of a given product, to become void. Rather, it shall be narrowly construed to apply only to licenses for specific copies of products for which both i) we are unable to cure non-compliance; and ii) the user or users of such copy require compliance in order to perform one or more tasks. For purposes of this paragraph, the depreciated value of a license will be calculated based on straight-line amortization over a twenty-four (24) month period from the date the license confirmation for such license was, or should have been, ordered pursuant to Section 3 of this Select Agreement, "Ordering Licenses."*

- q. **Conflicting terms.** If any provision appearing in this agreement purports to cause the Commonwealth to bestow a right or incur an obligation that is beyond the legal authority of the Department of Information Technology to bestow or incur on behalf of the Commonwealth, then that provision shall be deemed of no effect. The Department of Information Technology has been delegated, by the Virginia Department of General Services, the purchasing authority to enter into statewide contracts for the purchase of all Information Technology.*
- r. **Effective date.** This agreement is not legally binding until executed by both parties and shall become effective on the date of signature of the Commonwealth of Virginia, through the Department of Information Technology. Each enrollment executed hereunder shall not be legally binding until executed by each party thereto and shall become effective on the date of the signature of the applicable enrolling affiliate.*
- s. **Compliance with Code of Virginia.** We agree to comply with all provisions of the Code of Virginia to the extent applicable to this agreement.*
- t. **Reference prices for enterprise products and additional products.** Microsoft shall establish an estimated retail price for enterprise products and additional products ordered hereunder, at each of the price levels available hereunder, and shall make such list available to you upon your request. The reference prices are intended only as reference points for enrolling affiliates to use in negotiating actual prices with their resellers. The reference prices are subject to change from time to time, except as otherwise provided herein. Changes may be in the form of promotional estimated retail pricing which is made available for a specified period of time and, at the end of the period, returns to the established estimated retail price. In no event, however, will any change be effective on less than thirty (30) days prior written notice to the applicable reseller. The reference prices will not include taxes.*
- u. **Installment payments.** Entering into an enrollment hereunder establishes a payment obligation for enterprise products and additional products ordered pursuant to the initial purchase order, such that the ordering affiliate is obligated to make all installments for such products according to the applicable installment payment schedule, subject to the appropriation of funds for such installments. In the event that funds for an installment payment are not appropriated, the ordering affiliate agrees to notify us immediately, and the terms and conditions of Section 6 shall apply.*
- v. **Special reference prices during open enrollment period.***
  - a. **Determination of Post-Deadline Volume Level.***

*The Pre-Deadline Volume Level for the Office Family shall be determined based upon the Aggregate Office Desktop Count, according to the table in the following paragraph. The Pre-Deadline Volume Level for the Windows Family shall be determined by the Aggregate Windows Desktop Count, according to the table in the following paragraph. And the Pre-Deadline Volume Level for the CAL Family shall be determined by the Aggregate CAL Desktop Count, according to the table in the following paragraph.*

The following table shall be used to determine the Pre-Deadline Volume Levels for each of the Product Families:

<b>Pre-Deadline Volume Level</b>	<b>Aggregate Desktop Count</b>
Pre-Deadline Volume Level A	Between 250 and 2,399 qualified desktops
Pre-Deadline Volume Level B	Between 2,400 and 5,999 qualified desktops
Pre-Deadline Volume Level C	Between 6,000 and 14,999 qualified desktops
Pre-Deadline Volume Level D	Between 15,000 and 49,999 qualified desktops
Custom Level	50,000 or more qualified desktops

The Post-Deadline Volume Level for the Office Family shall be determined based upon the Aggregate Office Desktop Count, according to the table in the following paragraph. The Post-Deadline Volume Level for the Windows Family shall be determined by the Aggregate Windows Desktop Count, according to the table in the following paragraph. And the Post-Deadline Volume Level for the CAL Family shall be determined by the Aggregate CAL Desktop Count, according to the table in the following paragraph.

The following table shall be used to determine the Post-Deadline Volume Levels for each of the Product Families:

<b>Post-Deadline Volume Level</b>	<b>Aggregate Desktop Count</b>	<b>Corresponding Enterprise Agreement Volume Level</b>
Post-Deadline Volume Level A	Between 250 and 2,399 qualified desktops	A
Post-Deadline Volume Level B	Between 2,400 and 5,999 qualified desktops	B
Post-Deadline Volume Level C	Between 6,000 and 14,999 qualified desktops	C
Post-Deadline Volume Level D	15,000 or more qualified desktops	D

**b. Determination of reference prices.**

For Non-Platform Enrollments signed During the Open Enrollment Period, the following shall apply:

- the Year 1 per-desktop reference price for each enterprise product covered by each such Non-Platform Enrollment, for each Initial Desktop irrespective of the number of qualified desktops under such Enrollment, shall be determined according to the Table at Part 1 of Attachment A;
- the Year 2 and Year 3 per-desktop reference prices, respectively, for each enterprise product covered by each such Non-Platform Enrollment, for each Initial Desktop, shall be determined based upon the Pre-Deadline Volume Level for the Product Family in which each such enterprise product is contained, according to the Table at Part 1 of Attachment A;
- The per-desktop true up reference price for each enterprise product covered by each such Non-Platform Enrollment, for each qualified desktop added to the Enrollment during the first, second

*and third years, respectively, of the term of such Enrollment, shall be determined based upon the Pre-Deadline Volume Level for the Product Family in which each such enterprise product is contained, according to the Tables at Parts 2, 3, and 4, respectively, of Attachment A.*

*For Platform Enrollments signed during the Open Enrollment Period, the following shall apply:*

- *the Year 1 per-desktop reference price for each enterprise product covered by each such Platform Enrollment, for each Initial Desktop irrespective of the number of qualified desktops under such Enrollment, shall be determined according to the Table at Part 1 of Attachment A, less a discount of fifteen percent (15%). Such 15% discount shall be applied to the sum of the reference prices of the individual enterprise product components.*

*For example, if the sum of the annual per-desktop reference prices for the enterprise products covered by a Platform Enrollment, as shown on Attachment A, is \$307.00, then the discount applied shall be*

$$\{ \$307.00 \times 15\% = \} \$46.05,$$

*and the resulting annual per-desktop reference price for such enterprise products, in aggregate, shall be:*

$$\{ \$307.00 - \$46.05 = \} \$260.95.;$$

- *the Year 2 and Year 3 per-desktop reference prices, respectively, for each enterprise product covered by each such Platform Enrollment, for each Initial Desktop shall be determined based upon the Pre-Deadline Volume Level achieved by Participating Affiliates, pursuant to the terms and conditions of this Section 18(v), for the Product Family in which each such enterprise product is contained, according to the Table at Part 1 of Attachment A, less a discount of fifteen percent (15%);*
- *The per-desktop true up reference price for each enterprise product covered by each such Platform Enrollment, for each qualified desktop added to the Enrollment during the first, second and third years, respectively, of the term of such Enrollment, shall be determined based upon the Pre-Deadline Volume Level for the Product Family in which each such enterprise product is contained, according to the Tables at Parts 2, 3, and 4, respectively, of Attachment A, less a discount of fifteen percent (15%).*

*For Enterprise Enrollments signed after the Open Enrollment Deadline and through the last day of the 36<sup>th</sup> month following the effective date, the following shall apply:*

- *the Year 1, Year 2, and Year 3 per-desktop reference prices, respectively, for each enterprise product on each Initial Desktop shall be determined pursuant to the terms and conditions of Section 18(x) based upon the Post-Deadline Volume Level achieved by Participating Affiliates, pursuant to the terms and conditions of this Section 18(v), for the Product Family in which each such enterprise product is contained, according to the then-current published Microsoft reference prices for each such enterprise product which correspond to the applicable Post-Deadline Volume Level;*
- *The per-desktop true up reference price for each enterprise product for each qualified desktop added to the Enrollment during the first, second and third years, respectively, of the term of such Enrollment, shall be determined pursuant to the terms and conditions of Section 18(x) based upon the Post-Deadline Volume Level for the Product Family in which each such enterprise product is contained, according to the then-current published Microsoft reference prices for each such enterprise product which correspond to the applicable Post-Deadline Volume Level.*

**c. additional terms and conditions.**

*The parties acknowledge and agree that (i) the BackOffice CAL will not be offered in any Enterprise Enrollment after June 30, 2002; and (ii) notwithstanding the date upon which this Enterprise Agreement expires or is otherwise terminated, the method listed above in this Section 18(v) by which reference prices shall be determined shall cease to apply beginning on the 37<sup>th</sup> full calendar month following the effective date.*

*The following sentence shall apply both during the Open Enrollment Period and thereafter until the last day of the 36<sup>th</sup> full calendar month following the effective date. In the event that, in the absence of this Section 18(v), an enrolled affiliate would otherwise qualify for a lower reference price, for one or more of its chosen enterprise products, than the corresponding reference price(s) for such enterprise product(s) as determined pursuant to the terms and conditions hereof, the lower of the two reference prices for each such enterprise product shall apply.*

*You acknowledge, on behalf of your enrolled affiliates, that the reference price (and therefore, presumably, the price the reseller, as such term "reseller" is defined in section 1 and remains effective herein, charges each such enrolled affiliate) for both (i) the second and third annual payments, and (ii) true up payments at each anniversary, may increase pursuant to the terms of this Section 18(v). Such price increase for the payments stated above will result, with respect to an enrolled affiliate's Enterprise Enrollment, in the event that at least 15,000 qualified desktops, in aggregate, are not enrolled in Enterprise Enrollments covering each of the Product Families (or the Product Family) covered by that enrolled affiliate's Enterprise Enrollment, during the Open Enrollment Period. It is recommended that affiliates not enter into Enterprise Enrollments hereunder unless (a) they are aware of such possibility that their price may increase as stated above; and (b) they anticipate that sufficient budget will be approved to cover such increased payment amount.*

*You acknowledge and agree that there may be certain instances in which certain Enterprise Enrollments executed by your affiliates, whether under this Enterprise Agreement or otherwise under a separate Enterprise Agreement or Enterprise Subscription agreement, may have unit reference prices other than those shown on Attachment A or otherwise priced pursuant to the terms of this Section 18(v). Such instances include, but are not limited to those Enterprise Enrollments: (i) that were executed prior to the Open Enrollment Period; (ii) that contain other enterprise products not shown on attachment A; (iii) for which we negotiate a special payment schedule or ramped installment payments upon the condition that the reference price of such Enrollment be uplifted to account for the time value of money; (iv) which renew previously expired Enterprise Enrollments and therefore qualify for renewal pricing; and (v) for which a special price is negotiated to match the equivalent Microsoft Select estimated retail price for sufficient licenses, Upgrade Advantage and/or Software Assurance to otherwise provide the equivalent license and upgrade rights provided pursuant to an Enterprise Enrollment.*

*Reference prices are provided only for the purpose of comparison. Actual pricing and payment terms will be determined by agreement between each enrolled affiliate and its chosen reseller. We will provide each reseller with a list of reseller prices which corresponds to the reference prices in Attachment A.*

You agree to assist us in making eligible affiliates aware of the general terms, conditions, and benefits of entering into an Enterprise Enrollment, by:

- (i) posting such information a website accessible to each such affiliate;
- (ii) broadcasting an email announcement of such terms, conditions and benefits to all Information Technology Directors or similar officers within prospective Participating Affiliates; and
- (iii) participating, upon our request and as your schedule reasonably permits, in conference calls with such prospective Participating Affiliates, to discuss such terms, conditions, and benefits.

w. **Volume discount levels for additional products.** During the term of each enrollment executed hereunder, and provided that you are party to a Microsoft Select Agreement during such term, the volume discount level for each additional product ordered pursuant to such enrollment shall be the volume discount level that corresponds to the applicable volume discount level for the product pool in which such product is available pursuant to such Microsoft Select Agreement. For example, if Microsoft Project, which is a member of the Applications pool, is ordered as an additional product, and if, as of the date of such order, the Select volume discount level for the Applications pool is "Level D," then the additional product reference price for such copy of Microsoft Project shall be determined according to the then-current Level D additional product price list.

x. **Determination of enterprise product reference prices after Open Enrollment Period.** For the purposes of this Section 18(x), the following additional definition shall apply:

"Enterprise Equivalent Select Level" means, with respect to a Microsoft Select product pool in which the products included in a Product Family are included, the Microsoft Select volume discount level that corresponds to the Post-Deadline Volume Level for such Product Family. For example, if the Post-Deadline Volume Level for the CAL Family is "Level C," then the Enterprise Equivalent Select Level for the Systems product pool shall be "Level C."; and

"Enterprise Equivalent Select ERP" means, with respect to an enterprise product, the Microsoft Select Estimated Retail Price for such product, as listed on the Microsoft Select price list for the volume discount level corresponding to the Enterprise Equivalent Select Level for the product pool in which such enterprise product is included. For example, if the Enterprise Equivalent Select Level for the Servers product pool is determined to be Level C, then the Enterprise Equivalent Select ERP for any enterprise product in the CAL Family shall be the Microsoft Select Level C Estimated Retail Price for such product.

For new Enterprise Enrollments signed after the Open Enrollment Deadline and through the last day of the 36<sup>th</sup> month following the effective date, but not for enrollments signed after the 36<sup>th</sup> month following the effective date, the reference prices for enterprise products shall be determined as follows:

a. **For enterprise products in the CAL, Office, and Windows Product Families.**

- i. For non-renewal enrollments, the annual per-desktop reference price for an enterprise product in the applicable Product Family shall be the then-current Enterprise Equivalent Select ERP for license plus three years of Software Assurance for such product, less a discount of fifteen percent (15%), less another discount of fifteen percent (15%) if such enrollment is a Platform Enrollment, divided by three (3), then rounded to the next highest Dollar. Such annual per-desktop reference price will be charged for each of the three years of the agreement, at the beginning of each such year.
- ii. For renewal enrollments, the annual per-desktop reference price for an enterprise product in the applicable Product Family shall be the then-current Enterprise Equivalent Select ERP for three years of Software Assurance for such product, less a discount of five percent (5%), less another discount of five percent (5%) if such enrollment is a Platform Enrollment, divided by three (3), then rounded to the next highest Dollar. Such annual reference per-desktop reference price will be charged for each of the three years of the agreement, at the beginning of each such year.

- iii. *For all enrollments, the per-additional-desktop true-up reference price for desktops added in year 1 for an enterprise product in the applicable Product Family shall be the then-current Enterprise Equivalent Select ERP for license plus two and one-half (2 ½) years of Software Assurance for such product, less a discount of fifteen percent (15%), less another discount of fifteen percent (15%) if such enrollment is a Platform Enrollment, divided by three (3), then rounded to the next highest Dollar. Such per-additional-desktop true up reference price will be charged once, at the time of order.*
  - iv. *For all enrollments, the per-additional-desktop true-up reference price for desktops added in year 2 for an enterprise product in the applicable Product Family shall be the then-current Enterprise Equivalent Select ERP for license plus one and one-half (1 ½) years of Software Assurance for such product, less a discount of fifteen percent (15%), less another discount of fifteen percent (15%) if such enrollment is a Platform Enrollment, divided by three (3), then rounded to the next highest Dollar. Such per-additional-desktop true up reference price will be charged once, at the time of order.*
  - v. *For all enrollments, the per-additional-desktop true-up reference price for desktops added in year 3 for an enterprise product in the applicable Product Family shall be the then-current Enterprise Equivalent Select ERP for license plus one-half (½) year of Software Assurance for such product, less a discount of fifteen percent (15%), less another discount of fifteen percent (15%) if such enrollment is a Platform Enrollment, divided by three (3), then rounded to the next highest Dollar. Such per-additional-desktop true up reference price will be charged once, at the time of order.*
- b. For enterprise products not in the CAL, Office, and Windows Product Families.**
- i. *For non-renewal enrollments, the annual per-desktop reference price for such enterprise product shall be the then-current Enterprise Equivalent Select ERP for license plus three years of Software Assurance for such product, less a discount of fifteen percent (15%), divided by three (3), then rounded to the next highest Dollar. Such annual per-desktop reference price will be charged for each of the three years of the agreement, at the beginning of each such year.*
  - ii. *For renewal enrollments, the annual per-desktop reference price for such enterprise product shall be the then-current Enterprise Equivalent Select ERP for three years of Software Assurance for such product, less a discount of five percent (5%), divided by three (3), then rounded to the next highest Dollar. Such annual reference per-desktop reference price will be charged for each of the three years of the agreement, at the beginning of each such year.*
  - iii. *For all enrollments, the per-additional-desktop true-up reference price for desktops added in year 1 for such enterprise product shall be the then-current Enterprise Equivalent Select ERP for license plus two and one-half (2 ½) years of Software Assurance for such product, less a discount of fifteen percent (15%), divided by three (3), then rounded to the next highest Dollar. Such per-additional-desktop true up reference price will be charged once, at the time of order.*
  - iv. *For all enrollments, the per-additional-desktop true-up reference price for desktops added in year 2 for such enterprise product shall be the then-current Enterprise Equivalent Select ERP for license plus one and one-half (1 ½) years of Software Assurance for such product, less a discount of fifteen percent (15%), divided by three (3), then rounded to the next highest Dollar. Such per-additional-desktop true up reference price will be charged once, at the time of order.*
  - v. *For all enrollments, the per-additional-desktop true-up reference price for desktops added in year 3 for such enterprise product shall be the then-current Enterprise Equivalent Select ERP for license plus one-half (½) year of Software Assurance for such product, less a discount of fifteen percent (15%), divided by three (3), then rounded to*

*the next highest Dollar. Such per-additional-desktop true up reference price will be charged once, at the time of order.*

*For new Enterprise Enrollments after the 36<sup>th</sup> month following the effective date, the reference prices shall be determined either pursuant to Microsoft's then-current pricing rules for enterprise enrollments based on their individual desktop counts, or pursuant to whatever other agreement the parties may reach at such time regarding such reference prices.*

*For the purposes of determining the "License" reference price for operating system products in the Windows Product Family, the reference price for the Windows Upgrade will be used.*

## ATTACHMENT A

**Commonwealth of Virginia - Local Government - Enterprise Agreement Pricing During Open Enrollment Period  
Attachment A to Amendment One to Microsoft Enterprise Agreement**

**Part 1: Annual Payments for Initial Desktops**

	Annual Per-Desktop Reference Price, US Dollars					
	Year 1	Payments in Years 2 and 3				
	Any Quantity (Level D)	50,000 or more (Custom Level)	15,000-49,999 (Level D)	6,000-14,999 (Level C)	2,400-5,999 (Level B)	250-2,399 (Level A)
Office Family						
Office Professional	189.00	175.00	189.00	212.00	240.00	264.00
Office Standard	157.00	146.00	157.00	176.00	199.00	220.00
Windows Family						
Windows Desktop Operating System Upgrades	61.00	57.00	61.00	68.00	77.00	87.00
Client Access License Suites						
BackOffice CAL (only for EAs signed prior to June 30 2002)	104.00	96.00	104.00	117.00	133.00	147.00
Core CAL	76.00	70.00	76.00	87.00	98.00	109.00

**Part 2: Single True Up Payments for Desktops Added Year 1**

	Per-Desktop Reference Price, US Dollars				
	50,000 or more (Custom Level)	15,000-49,999 (Level D)	6,000-14,999 (Level C)	2,400-5,999 (Level B)	250-2,399 (Level A)
Office Family					
Office Professional	484.00	523.00	586.00	663.00	731.00
Office Standard	402.00	435.00	487.00	551.00	607.00
Windows Family					
Windows Desktop Operating System Upgrades	127.00	137.00	153.00	174.00	195.00
Client Access License Suites					
BackOffice CAL (only for EAs signed prior to June 30 2002)	267.00	288.00	326.00	369.00	409.00
Core CAL	194.00	210.00	241.00	273.00	304.00

**Part 3: Single True Up Payments for Desktops Added Year 2**

	Annual Per-Desktop Reference Price, US Dollars				
	50,000 or more (Custom Level)	15,000-49,999 (Level D)	6,000-14,999 (Level C)	2,400-5,999 (Level B)	250-2,399 (Level A)
Office Family					
Office Professional	403.00	435.00	488.00	551.00	608.00
Office Standard	335.00	362.00	405.00	458.00	505.00
Windows Family					
Windows Desktop Operating System Upgrades	94.00	102.00	112.00	128.00	144.00
Client Access License Suites					
BackOffice CAL (only for EAs signed prior to June 30 2002)	226.00	244.00	276.00	312.00	346.00
Core CAL	165.00	178.00	204.00	231.00	257.00

**Part 4: Single True Up Payments for Desktops Added Year 3**

	Annual Per-Desktop Reference Price, US Dollars				
	50,000 or more (Custom Level)	15,000-49,999 (Level D)	6,000-14,999 (Level C)	2,400-5,999 (Level B)	250-2,399 (Level A)
Office Family					
Office Professional	321.00	347.00	389.00	440.00	485.00
Office Standard	267.00	289.00	323.00	366.00	403.00
Windows Family					
Windows Desktop Operating System Upgrades	61.00	66.00	72.00	82.00	94.00
Client Access License Suites					
BackOffice CAL (only for EAs signed prior to June 30 2002)	184.00	198.00	226.00	256.00	284.00
Core CAL	134.00	145.00	168.00	189.00	211.00