

Campus and School Agreement

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

This agreement consists of (1) these terms and conditions and the signature form, (2) the Product Terms, (3) the Online Services Terms, (4) any Enrollment entered into under this agreement, (5) any order submitted under this agreement, and (6) the eligibility criteria for Campus and School Agreement at the Licensing Site as of the effective date of this agreement.

Terms and Conditions

1. Definitions.

In this agreement, the following definitions apply:

“Affiliate” means

- a. If Institution is a non-public entity, then, with regard to Institution, “Affiliate” means any Qualified Educational User (as defined in the applicable Microsoft Qualified Educational User Definition available at the Licensing Site) that controls, is controlled by, or is under common control with Institution.
- b. If Institution is a public entity, then, with regard to Institution, “Affiliate” means, any Qualified Educational User that is:
 - (i) within the administrative control or supervision of Institution, or
 - (ii) expressly authorized by Institution to purchase as its affiliate.
- c. with regard to Microsoft, any entity that controls, is controlled by, or is under common control with Microsoft.

For purposes of this definition, **except with regard to hospitals, healthcare systems, and research laboratories** (collectively, “Healthcare Institutions”), “control” means ownership of more than a 50% interest of voting securities in an entity or the power to direct the management and policies of an entity. For Healthcare Institutions, “control” means that Institution is the sole owner of the Healthcare Institution or the only entity with the power to direct the management and policies of the Healthcare Institution’s day-to-day operations.

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

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

“day” means a calendar day.

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

“Institution” means the entity that is (1) a Qualified Educational User (as defined at <http://www.microsoft.com/licensing/contracts>) as of the effective date of this agreement that has entered into this agreement with Microsoft or (2) an Affiliate of Institution that has entered into an Enrollment under this agreement. If Institution is a school district, “Institution” includes all participating schools in the same district.

"Knowledge Worker" has the definition provided in the Enrollment.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Licensed Period" means the period of time beginning on the effective date specified in the Enrollment and continuing for the period of time specified in the Enrollment.

"Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

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

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Institution's use of Online Services published on the Licensing Site and updated from time to time.

"Organization" means the organization Institution defines in its Enrollment.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions. Product availability may vary by region.

"Product Terms" means the document that provides information about Microsoft Products available through volume licensing. The Product Terms document is published on the Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Licensing Site.

"Software" means licensed copies of Microsoft software identified in the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

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

"Student" means any individual enrolled in any educational institution that is part of the Organization, whether on a full-time or part-time basis.

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

"Use Rights" means the use rights or terms of service for each Product published on the Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Users" means Institution, Knowledge Workers, and Students designated on the Enrollment to run the Products, and members of the public who access devices located in Institution's open access labs or libraries.

2. License for Products.

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

- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to the Organization's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless Institution chooses to have such changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
- (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade Rights.** Organization may use an earlier version of a Product than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **License Confirmation.** This agreement, the applicable Enrollment, and Institution's order confirmation, together with proof of payment, will be Institution's evidence of all Licenses obtained under an Enrollment.

3. ***Use, ownership, rights, and restrictions.***

- a. **Products.** Unless otherwise specified in this agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable Enrollment.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Institution is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.
- d. **Restrictions.** Institution must not (and is not licensed to) (1) reverse engineer, decompile or disassemble any Product or Fix, (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Except as expressly permitted in this agreement or Product documentation, Institution must not (and is not licensed to) (1) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (2) distribute, sublicense, rent, lease, lend, any Products, Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Institution any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

4. ***Making copies of Products and re-imaging rights.***

- a. **General.** Institution may make as many copies of Products as it needs to distribute them within the Organization. Copies must be true and complete (including copyright and

trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Institution may use a third party to make these copies, but Institution is agreed it will be responsible for any third party's actions. Institution agrees to make reasonable efforts to notify its Users 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, Institution 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 Use Rights.
- c. Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the 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 acquired from the separate source for each Product that is re-imaged.
 - (ii)** The Product, language, version, and components of the copies made must be identical to the Product, language, version, and components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii)** Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv)** Institution must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights provided with the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Redistribution of Software Updates to Student Users.

- a. License grant.** Microsoft grants the Organization a limited, non-exclusive, royalty-free, non-assignable, non-transferable, revocable License to distribute Software Updates to Institution's Student Users in accordance with the terms of this section. The Organization's Student Users must use the Software Updates solely for their personal benefit in accordance with the end-user License Agreement ("EULA") with Microsoft included with each Software Update.
- b. Redistribution of Software Updates.** Institution may redistribute Software Updates to its Student Users (1) by electronic means provided that Institution's method of electronic distribution is adequately licensed and incorporates access control and security measures designed to prevent modification of the Software Updates and access by the general public or (2) by acquiring authorized copies on fixed media from a fulfillment source approved by Microsoft.
- c. Limitations.** Institution may not (1) produce or replicate Software Updates onto CDs or other distributable storage media, (2) combine the Software Updates with other non-Microsoft software, (3) distribute any Software Updates as a stand-alone component via email attachment, (4) charge for the Software Updates, other than to recover any reasonable costs incurred in providing the updates to its Student Users; (5) remove, modify, or interfere with the EULA or the EULA acceptance functionality included by Microsoft with any Software

Update; or (6) alter the Software Updates in any way. Microsoft is not responsible for any cost related to the acquisition, distribution, or recall of the Software Updates.

- d. Tracking and recall.** Organization must track the quantity and method of distribution of the Software Updates by means that will allow Institution to provide notice of a recall and offer replacements as provided in this subsection. Institution agrees to stop redistributing Software Updates within 10 days of receipt of a notice of recall from Microsoft and within 30 days of that notice Institution agrees to (1) return to Microsoft or destroy all copies of Software Updates in the Organization's possession and (2) notify its Student Users of the recall by the same or similar means in which they were notified of the availability of the Software Updates.
- e. Replacement Software Updates.** If Microsoft makes a replacement Software Update available, Institution agrees to make the replacement available to its Student Users, within 30 days of receipt in the same quantity and method(s) of distribution, if available, as Institution made the original Software Update available. The distribution of replacement Software Updates is subject to the same conditions and restrictions as other Software Updates under this section.
- f. No warranties.** Notwithstanding anything to the contrary in this agreement, and to the extent permitted by law, Software Updates that Institution redistributes to its Student Users are provided "as is" without any warranties. Institution acknowledges that the provisions of this paragraph with regard to the Software Updates are reasonable considering, among other things, that the Software Updates are complex computer products. Institution further acknowledges that the performance of the Software Updates will vary depending upon hardware, platform and Products interactions, and configurations.
- g. Exclusion of damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, OR INDIRECT DAMAGES THAT ARISE OUT OF OR ARE IN ANY WAY RELATED TO INSTITUTION'S REDISTRIBUTION OF THE SOFTWARE UPDATES TO ITS STUDENTS. FURTHERMORE, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SUCH DAMAGES BASED DIRECTLY OR INDIRECTLY UPON THE PROVISION OF SOFTWARE UPDATES OR UNAVAILABILITY OF SOFTWARE UPDATES—INCLUDING, WITHOUT LIMITATION, DAMAGES DUE TO BUSINESS INTERRUPTION, LOSS OF PROFITS, REVENUE OR BUSINESS OPPORTUNITY, LOSS OF DATA AND THE LIKE, FAILURE TO MEET ANY DUTY, OR NEGLIGENCE.
- h. Limitation of liability.** With respect to Institution's redistribution of the Software Updates, the limitation of liability provisions in this agreement shall apply in those situations in which Institution or any User asserts a right to damages or other compensation from Microsoft.
- i. No support.** Institution understands that Microsoft has no obligation to provide any support for Software Updates that Institution may redistribute to its Student Users, including any benefits accruing from Software Assurance.
- j. Applicability.** The provisions of this section shall not apply to the distribution of Fixes to Student Users so long as the Fix distributed is for a Product the Students are authorized to run under the Student licensing option. All other redistribution of additional or replacement code to Student Users is subject to the provisions of this section.

6. Transferring and reassigning Licenses.

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

Upon such transfer, the divested or merged part of the Organization must uninstall and discontinue using the licensed Products and render any copies unusable.

- b. Notification of License Transfer.** Institution must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from the Licensing Site, and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Institution provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the Licenses being transferred (including, without limitation, the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single User or device within the Organization. Licenses and Software Assurance may be reassigned within the Organization as described in the Use Rights.

7. Confidentiality.

“Confidential Information” is non-public information that is designated “confidential” or that a reasonable person should understand to be confidential, including Customer Data and the terms of Microsoft agreements. The Online Services Terms may provide additional obligations for, and limitations on disclosure and use of, Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without an obligation to keep it confidential, (c) is independently developed, or (d) is a comment or suggestion one party volunteers about the other’s business, products or services.

Each party will take reasonable steps to protect the other party’s Confidential Information and will use the other party’s Confidential Information only for purposes of the parties’ business relationship. Neither party will disclose that information to third parties, except to its employees, Affiliates, contractors, advisors and consultants (collectively, “Representatives”) and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of the discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other party’s Confidential Information if required by law; but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of Representatives who have had access to Confidential Information. 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.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

8. Privacy and compliance with laws.

- a.** Institution consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this agreement. Institution will obtain all required consents from third parties (including Institution’s contacts, resellers, distributors, administrators, and employees) under applicable privacy and data protection law before providing personal information to Microsoft.
- b.** Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers

maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. Export.** Products and Fixes are subject to U.S. export jurisdiction. Institution must comply with all applicable international and national laws, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end use and destination restrictions by U.S. and other governments related to Microsoft products, services, and technologies.

9. **Term and termination.**

- a. **Effective date.** The effective date of this agreement will be the earlier of either the date the agreement is executed by Microsoft or the effective date of the first Enrollment.
- b. **Term.** This agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- c. **Termination without cause.** Either party may terminate this agreement without cause upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this agreement.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment 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 of its intent to terminate and an opportunity to cure the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Institution within a reasonable period of time, Microsoft may terminate this agreement and all Enrollments under it. If Institution terminates an Enrollment as a result of a breach by Microsoft, then Institution will have the early termination rights described in the Enrollment.
- e. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service in any country or jurisdiction where there is any current or future government requirement or obligation that (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating there, (2) presents a hardship for Microsoft to continue operating the Online Service without modification, and/or (3) causes Microsoft to believe these terms or the Online Service may be in conflict with any such requirement or obligation.
- f. **Program updates.** Microsoft may make changes to this program that will make it necessary for Institution to enter into a new agreement and Enrollment at the time of an Enrollment renewal.
- g. **Approvals.** To the extent necessary to implement the termination provisions of this agreement, each of the parties waives any right it has, or obligation that the other party may have, now or in the future under any applicable law or regulation, to request or obtain the approval, order, decision or judgment of any court to terminate this agreement or an Enrollment.

10. **Warranties.**

- a. **Limited warranties and remedies.**

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Microsoft user documentation for one year from the date Institution is first licensed for that version. If it does not and Institution notifies Microsoft

within the warranty term, then Microsoft will, at its option (1) return the price Institution paid for the Software license, or (2) repair or replace the Software.

- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during Institution's use. Institution's remedies for breach of this warranty are in the SLA.

The remedies above are Institution's sole remedies for breach of the warranties in this section. Institution waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse or use in a manner inconsistent with this agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Institution is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. *Defense of third party claims.*

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Institution against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Institution's license and refund any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Institution's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Institution.** To the extent permitted by applicable law, Institution will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or non-Microsoft software hosted in an Online Service by Microsoft on Institution's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Institution's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. *Limitation of liability.*

For each Product, each party's maximum, aggregate liability to the other under this agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Institution was required to pay for the applicable Products during the term of this agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Institution for any incident giving rise to a claim will not exceed the amount Institution paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Institution is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. **Verifying compliance.**

- a. **Right to verify compliance.** Institution must keep records relating to all use and distribution of Products by Institution and its Affiliates. Microsoft has the right, at its expense, to verify compliance with the Products' license terms. Institution must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of licenses for Products Institution hosts, sublicenses, or distributes to third parties. Institution agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use of Products, then within 30 days (1) Institution must order sufficient licenses to cover its use, and (2) if unlicensed use or distribution is 5% or more, Institution must reimburse Microsoft for the costs Microsoft incurred in verification and acquire the necessary additional licenses at 125% of the price, based on the then-current price list and Institution price level. The unlicensed use percentage is based on the total number of licenses purchased for current use compared to actual install base. If there is no unlicensed use, Microsoft will not subject Institution to another verification 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 legal means.
- c. **Verification process.** Microsoft will notify Institution at least 30 days' in advance of its intent to verify Institution's compliance with the license terms for the Products Institution and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Institution's operations.
- d. Additionally, Institution must use reasonable efforts to make Users aware of the terms and conditions upon which they are allowed to use the Products. Accordingly, Institution must:
 - (i) Notify all Users in advance of using the Products that:
 - 1) their use of the Products is subject to the terms of this agreement, including but not limited to limitations on liability, disclaimer of warranties and exclusion of remedies;
 - 2) they are allowed to run the Products only during the Licensed Period;
 - 3) if this agreement is terminated, or an Enrollment expires and Institution does not purchase perpetual Licenses for the Products ordered under the Enrollment, then all

Products run under this agreement or the applicable Enrollment must be deleted when the Licensed Period expires or is otherwise earlier terminated, whichever is first;

- (ii) Periodically publish in an Organization-wide publication and applicable web sites a reference to the location (either physical or on a computer network) where they can view the Product Terms and Use Rights;
- (iii) Notify Microsoft immediately if Institution becomes aware of any actual or potential violation of this agreement; and
- (iv) Provide all reasonable assistance and cooperation Microsoft requests to investigate and remedy any unauthorized use of the Products by Users.

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

14. Miscellaneous.

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance, subject to the terms of this agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Institution and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Institution about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Institution. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Institution is free to enter into agreements to license, use, or promote non-Microsoft products or services.
- e. **Amendments.** Any amendment to this agreement must be executed by both parties, except that Microsoft may change the Product Terms and Use Rights from time to time, subject to the terms of this agreement. Any additional or conflicting terms and conditions contained in Institution's or a reseller's purchase order are expressly rejected and will not apply. Microsoft may require Institution to sign a new agreement or an amendment to an existing agreement before processing a new order or entering into an Enrollment.
- f. **Assignment.** Either party may assign this agreement to an Affiliate, but it must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law.** The terms of this agreement and each Enrollment entered into with any Microsoft Affiliate located outside of Europe will be governed by and construed in accordance with the laws of the State of Washington and federal laws of the United States. The terms of this agreement and each Enrollment entered into with a Microsoft Affiliate located in Europe will be governed by and construed in accordance with the laws of Ireland. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this agreement.
- h. **Dispute resolution.** When bringing an action arising under this agreement, the parties agree to the following exclusive venues:
 - (i) If Customer is located in Australia, Hong Kong SAR, Macao SAR, Korea, Malaysia, New Zealand, Singapore, or Taiwan, the following applies:

1. If Microsoft brings the action, the venue will be where Institution has its headquarters;
2. If Institution brings the action, the venue will be the state or federal courts in King County, State of Washington, U.S.A.;

(ii) If Institution is located in Bangladesh, Indonesia, Myanmar, Sri Lanka, Thailand, The Philippines, or Vietnam, the following terms apply: when bringing an action arising under this agreement the parties agree the action will finally be resolved by arbitration in accordance with the terms of this section. The decision of an arbitrator shall be final, binding, and incontestable and may be used as a basis for judgment thereon in the above-named countries or elsewhere. To the fullest extent permitted by applicable law, the parties waive their right to any form of appeal or other similar recourse to a court of law.

Any dispute arising out of or in connection with this agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC"), which rules are deemed to be incorporated by reference into this section. The Tribunal shall consist of one arbitrator to be appointed by the Chairman of SIAC. Arbitration proceedings shall be conducted in English. This choice of venue does not prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.

The parties consent to personal jurisdiction in the agreed venue. This choice of venue does not prevent either party from seeking injunctive relief in any appropriate jurisdiction with respect to a violation of intellectual property rights or confidentiality obligations.

- i. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- j. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- k. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- l. **Survival.** All provisions survive termination or expiration of this agreement except those requiring performance only during the term of the agreement.
- m. **Taxes.** If any amounts are to be paid to Microsoft, the amounts owed are exclusive of any taxes unless otherwise specified on the invoice as tax inclusive. Institution shall pay all value added, goods and services, sales, gross receipts, or other transaction taxes, fees, charges, or surcharges, or any regulatory cost recovery surcharges or similar amounts that are owed under this agreement and that Microsoft is permitted to collect from Institution under applicable law. Institution shall be responsible for any applicable stamp taxes and for all other taxes that it is legally obligated to pay, including any taxes that arise on the distribution or provision of Products by Institution to the Organization. Microsoft shall be responsible for payment of all taxes based upon its net income, gross receipts taxes imposed in lieu of taxes on income or profits, or taxes on Microsoft's property ownership.

If any taxes are required to be withheld on payments made to Microsoft, Institution may deduct such taxes from the amount owed and pay them to the appropriate taxing authority; provided, however, that, Institution promptly secures and delivers to Microsoft an official receipt for those withholdings and other documents Microsoft reasonably requests to claim a foreign tax credit or refund. Institution must ensure that any taxes withheld are minimized to the extent possible under applicable law.

- n. **Management and reporting.** Institution must provide and manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center web site (or its successor site) at <https://www.microsoft.com/licensing/servicecenter>. On the effective date of this agreement and any Enrollments, the contact(s) Institution has

identified for this purpose will be provided access to this site and may authorize additional users and contacts.

- o. Order of precedence.** In the case of a conflict between any documents in this agreement that is not expressly resolved in the documents, their terms will control in the following order, from highest to lowest priority: (1) this Campus and School Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this agreement, and (6) any other documents in this agreement. Terms in an amendment control over the amended document and any prior amendments, concerning the same subject matter.

For Institutions located in any of the countries cited below, the following country-specific provisions replace or supplement the equivalent provisions as noted:

Australia

Supplement Terms and Conditions, Section 10, "Warranties," with the following new subsection:

- d. Consumer remedies.** Notwithstanding anything in this agreement, consumers may have the benefit of certain rights or remedies pursuant to the Competition and Consumer Act 2010 (Cth) and similar state and territory laws in Australia in respect of which liability may not be excluded. If so, then to the maximum extent permitted by law, such liability is limited, at Microsoft's option, in the case of goods to either (1) replacement of the goods or (2) correction of defects in the goods. Australian law requires us to notify consumer purchasers of Microsoft goods that: "Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."

New Zealand

Supplement Terms and Conditions, Section 12, "Limitation of liability," with the following new subsection:

- e. Statutory liability.**

- (i) Business.** Where Microsoft is a supplier (as that term is defined in the Consumer Guarantees Act 1993 ("CGA") of the Products, Institution confirms that the Products provided by Microsoft under this agreement are acquired for the purposes of a business (as that term is defined in the CGA) and Institution agrees that the CGA does not apply to the Products supplied by Microsoft.
- (ii) Consumers.** Nothing in this agreement is intended to limit the rights of a "consumer" under the CGA where that Act applies, except to the extent permitted by that Act, and the terms of this agreement are to be modified to the extent necessary to give effect to this intention.