

Signed By: Diwan, Gagan 05/04/2015

BY SCROLLING TO THE BOTTOM OF THIS AGREEMENT AND CLICKING THE "I ACCEPT" BUTTON, COMPANY AGREES TO BE BOUND BY THE FOLLOWING GENERAL TERMS, THE ATTACHED EXHIBITS, AND THE MPN WEBSITE (INCLUDING ITS TERMS OF USE, TRADEMARKS, AND PRIVACY STATEMENT), WHICH ARE ALL INCORPORATED INTO AND FORM A PART OF THIS AGREEMENT (TOGETHER, THE "AGREEMENT"). COMPANY MUST ACCEPT THIS AGREEMENT BEFORE IT CAN PARTICIPATE IN THE MICROSOFT PARTNER NETWORK.

MICROSOFT PARTNER NETWORK AGREEMENT

GENERAL TERMS

The parties agree to the following terms for Company's participation in the MPN.

SECTION 1 Scope

The Microsoft Partner Network (the "MPN") is designed to help qualified technology companies build, sell, service, and support solutions for their customers based on Microsoft technologies. To qualify for the MPN, a technology company must sell more than 75 percent of its IT solutions and services to unaffiliated third parties – i.e., parties that are not Affiliates. Company's participation in the MPN is voluntary. Nothing in this Agreement restricts Company from working with and using non-Microsoft technologies.

SECTION 2 Definitions

- (a) "Affiliate" means any legal entity that owns, is owned by, or is commonly owned with a party. "Own" means having more than 50% ownership or the right to direct the management of the entity.
- (b) "Company" means the business entity that meets the qualifications to participate in MPN and that has entered into this Agreement.
- (c) "Company Contractor" means either a third party to whom Company delegates one or more of its MPN obligations or a Company Affiliate that is not contracting directly with Microsoft.
- (d) "Confidential Information" means non-public information, know-how, or trade secrets in any form that:
 - (1) Are designated as being proprietary or confidential; or
 - (2) A reasonable person knows or reasonably should understand to be confidential, including but not limited to non-public information regarding either party's products or customers, marketing and promotions (including any templates, reports, or pricing or sales information) and the negotiated terms of Microsoft agreements.

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.
- (e) *"Fix(es)"* means Product fixes, modifications or enhancements or their derivatives that Microsoft either releases generally (such as commercial Product service packs), or that Microsoft provides to Company when performing Services to address a specific issue (such as workarounds, patches, bug fixes, beta fixes and beta builds).
- (f) *"Location"* means Company's or its Affiliate's primary place of business.
- (g) *"Membership Opportunities"* means the level of Company's participation in the MPN.
- (h) *"Microsoft"* means the Microsoft entity identified in Section 14(m).
- (i) *"Microsoft Materials"* means technology (including Products); Services; Microsoft Services Materials; security, technical, sales, and marketing information and resources; training courses and materials; and other benefits, tools, systems or resources Microsoft offers to Company under the MPN.
- (j) *"Microsoft Representatives"* means channel partners (for example, resellers, software advisors, original equipment manufacturers, and distributors), suppliers, vendors, consultants, lobbyists, and any other third party representatives.
- (k) *"Microsoft Services Materials"* means any non-code based written materials, created, owned, or licensed by Microsoft that Microsoft provides to Company as part of performing the Services under the MPN.
- (l) *"MPN Website"* means the website located at <https://partner.microsoft.com> or a successor site designated by Microsoft. The MPN Website provides tools and information about the MPN.
- (m) *"Pre-existing Work"* means any computer code (other than Products or Fixes) or non-code based written materials developed or obtained independent of this Agreement, whether by or for Microsoft or its Affiliates, or by or for Company or its Affiliates.
- (n) *"Product"* means all Microsoft products and technologies Microsoft makes available under this Agreement, including but not limited to products made available for license for a fee, products provided prior to commercial release, and hardware, including any online services and other web-based services identified on the Product List.
- (o) *"Product List"* means, with respect to any licensing program, the statement published by Microsoft from time to time at <http://microsoft.com/licensing/contracts>, or at a successor site that Microsoft identifies, which identifies the Products that are or may be made available under the MPN (which availability may vary by region).
- (p) *"Program(s)"* means one or both of the following Microsoft programs:
- (1) Microsoft Authorized Education Reseller program for Academic Volume Licensing, under which partners purchase and resell software licensed under certain Microsoft academic licensing agreements to qualified educational users.
 - (2) Microsoft Online Services Partner Services Advisor program, under which partners support customers in the licensing of certain online services from Microsoft.

- (q) “*Program Exhibit*” has the meaning given to it under Section 3(b).
- (r) “*Services*” means support, consulting, training, and other services or advice provided by Microsoft or its agent through the MPN.
- (s) “*Subcontracted Services*” has the meaning given to it under Section 5(f).
- (t) “*Term*” has the meaning given to it under Section 8(a).

SECTION 3 Enrollment in MPN and Programs

- (a) MPN. Company will be enrolled in the MPN after it accepts this Agreement, pays a membership fee (where applicable), and is accepted by Microsoft into the MPN. Microsoft may accept or decline to accept Company in the MPN at Microsoft’s sole discretion. Microsoft will notify Company when its enrollment is complete.
- (b) Programs. Company may elect to enroll in one or more Programs by satisfying the relevant eligibility criteria available at the websites or other documents referenced in the terms and conditions for such Program(s) in the following attached exhibits (each, a “*Program Exhibit*”):
 - (1) Exhibit B: Microsoft Authorized Education Reseller Program for Academic Volume Licensing.
 - (2) Exhibit C: Microsoft Online Services Partner Advisor Program.

Upon enrolling in a Program, Company will be subject to the terms and conditions for such Program(s) as set forth in the applicable Program Exhibit(s). Unless authorized under a separate agreement with Microsoft or elsewhere in this Agreement, Company will be deemed to be in material breach of this Agreement if it exercises or attempts to exercise any of the rights provided under a Program Exhibit prior to satisfying all eligibility criteria described in that Program Exhibit, including, but limited to, any rights to resell, sub-license, rent, transfer, or otherwise redistribute Microsoft Materials or other Microsoft intellectual property.

SECTION 4 MPN options and administration

- (a) Membership Opportunities. There are four Membership Opportunities covered by the terms of this Agreement:
 - (1) Community;
 - (2) Subscription;
 - (3) Silver Competency; and
 - (4) Gold Competency

Membership Opportunities and requirements are described more fully on the MPN Website.

- (b) Competency. A competency is a MPN recognition given to partners for areas of expertise. The MPN Website explains the competencies and related requirements.
- (c) MPN administration. Microsoft will administer the MPN and its benefits through the MPN Website and MPN communications. Microsoft may communicate with Company to:

- (1) Administer the MPN;
 - (2) Give Company information about the MPN, including but not limited to sending Company promotional information and information about events and training opportunities;
 - (3) Invite Company to participate in surveys and research;
 - (4) Give Company Microsoft Materials to help it deliver solutions based on Products; and
 - (5) Contact Company at the business number provided with information about the Microsoft Partner Network.
- (d) MPN changes.
- (1) Microsoft may change the MPN or any aspect of it. Microsoft will give Company 30 days' e-mail or other written notice of any substantive MPN changes.
 - (2) Company is responsible to check the MPN Website regularly for all other changes, which are effective on the date they are posted. Changes do not apply retroactively.
- (e) Company Contractor Restrictions. For the purposes of obtaining Membership Opportunities and MPN competencies, Company may hire one or more Microsoft Certified Professionals ("MCP" as defined on the MPN website) through a Company Contractor to fulfill the necessary program requirements. Company may not rely upon MCP to satisfy program requirements if Company discovers that MCP is already dedicated to another Company. This limitation does not preclude or restrict any Company from engaging a Company Contractor to perform services required by Company or any other partner relating to the MPN and applies only to a Company Contractor's dedication of its MCPs .

SECTION 5 MPN benefits

- (a) Company will receive the benefits described on the MPN Website. Benefits may vary by Membership Opportunity, competency, and country. Benefits may include Microsoft Materials.
- (b) MPN benefits may require additional fees and have additional terms, conditions, and licenses. Company must (i) accept those additional terms before using any MPN benefit and (ii) use the MPN benefits according to those additional terms and this Agreement. Company may not use the MPN benefit(s) if it does not agree to those additional terms, if applicable.
- (c) Company's Affiliates may participate in the MPN under the Company's Location for the purpose of pooling Company resources to earn Competencies or for sharing benefits.
- (d) Except as otherwise stated, Company may utilize the certifications and skills of Company employees and/or Company Contractors to fulfill MPN requirements. Such Company employees and Contractors may avail themselves of Company's MPN benefits only as long as they are performing work for Company. Once the Company employee and/or Contractor ceases to perform work for the Company, the individual must be disassociated from MPN and the individual must stop using Company's MPN benefits.
- (e) Services benefits.
 - (1) Company's use of Services offered as a benefit of the MPN will be governed by this Agreement.

- (2) Microsoft's delivery of Services depends on Company's full and timely cooperation, as well as the accuracy and completeness of Company's information.
- (3) Microsoft may offer Services for new Products or discontinue Services for existing Products in accordance with Microsoft's lifecycle policies posted at <http://support.microsoft.com/lifecycle>, or at a successor site that Microsoft identifies. There may be cases where Company's implementation of Products cannot be effectively supported. As part of providing the support Services, Microsoft will notify Company if Microsoft reaches that conclusion.
- (4) Services and associated Microsoft Services Materials are provided subject to the rules and restrictions contained on the MPN Website, in addition to the following:
- (i) Third Party Content. Microsoft may provide links to third party web sites and content in the Services and Microsoft Services Materials. The linked sites and content are not under Microsoft's control and Microsoft is not responsible for such content. Microsoft does not support or endorse any third party sites or content and provides these links solely as a convenience. Microsoft makes no representations or warranties, express, implied or statutory, as to any third party web sites or content.
 - (ii) Updates. During the Term, Microsoft may provide Company with updates to the Services or Microsoft Services Materials, at Microsoft's discretion. Microsoft has no duty to update the Services or Microsoft Services Materials.
 - (iii) Request for Customer Information. To assess the value of the Services, Company will provide Microsoft with the following information regarding those Company customers who have benefitted from such Services:
 - a. Customer name (optional and with customers' prior consent)
 - b. Customer industry and size information
 - c. Customer opportunity size
 - d. Total customer opportunity versus portion attributable to Services
 - e. Win/Loss data (dates, reasons, perceived value of Services)
 - (iv) Request for MPN Feedback. Company will periodically provide feedback on Company's experience with the Services:
 - a. Value/quality of the Microsoft Services Materials
 - b. Quality of support
 - c. Customer's perceptions
 - d. Impact on Company's business

Terms of Section 9(d) below apply to all feedback provided by Company.

(5) Use, Ownership, and License Rights for Microsoft Services.

(i) Fixes. Microsoft retains all rights and ownership in the Fixes. Fixes are licensed according to the license terms applicable to the Product to which those Fixes relate. Microsoft's Fixes are licensed to Company, not sold. If the Fix is not provided for a specific Product, Microsoft grants Company a non-exclusive, fully paid-up license to use and reproduce the Fix for Company's internal business operations. In the event a customer of Company requests a Fix or Fixes from Company, Company shall notify Microsoft in writing of such request, specifically identifying the Fix requested and the customer, and Microsoft may authorize Company in writing to sublicense to such customer Company's rights described in this Section 5(e) (5)(i) (i.e., a non-exclusive, fully paid-up license to use and reproduce the identified Fix solely for customer's internal business operations). If Microsoft or Company terminates this Agreement, the license grant in the Fixes will be terminated as well.

(ii) Microsoft Services Materials. Microsoft retains all rights and ownership in the Microsoft Services Materials. Microsoft grants Company a non-exclusive, fully paid-up, license to use, reproduce and modify any of the Microsoft Services Materials for Company's internal business operations, including but not limited to building a services practice (e.g., through the use of Practice Accelerator). If Microsoft provides certain Microsoft Services Materials to Company to facilitate Company's building of a services practice (e.g., customizable reference architecture documents), Microsoft also grants Company the right to distribute such Microsoft Services Materials to Company's customers solely for customers' internal business operations. If Microsoft or Company terminates this Agreement, the license grant in the Microsoft Services Materials will be terminated as well.

(iii) Pre-existing Work.

a. All rights in any Pre-existing Work will remain the sole property of the party providing the Pre-existing Work. During the performance of the Services, each party grants to the other party (and their respective contractors as necessary) a non-exclusive, temporary, fully paid-up, license to use, reproduce and modify any of its Pre-existing Work solely to perform the Services.

b. In the event any Fix or Microsoft Services Materials contain Microsoft Pre-existing Work, and such Fix or Microsoft Services Materials is left with Company pursuant to Company's receipt of Services under this Agreement, Microsoft also grants Company a non-exclusive, fully paid-up, license to use, reproduce and modify (if applicable) such Microsoft Pre-existing Work solely in the form provided to Company for Company's internal business operations.

c. With respect to any Fixes to which Microsoft has authorized Company to sublicense to Company's customers, Microsoft also grants Company the right to grant to its customers that Company specifically identifies in writing to Microsoft a non-exclusive, fully paid-up license to use, reproduce and modify (if applicable) Microsoft's Pre-existing Work in the form provided to Company as part of the Microsoft Services Materials for customer's internal business operations. In no event is Company granted any license to distribute Microsoft Pre-existing Work apart from the Microsoft Services Materials.

(iv) Sample Code. Company's use of any sample software code that may be provided by Microsoft for the purposes of illustration ("*Sample Code*") is subject to the Microsoft Public License, posted at <http://opensource.org/licenses/ms-pl.html>, or at a successor site that Microsoft identifies.

(v) Open source license restrictions. Some third party software licenses require, as a condition of use, modification and/or distribution that the software or some other software combined and/or distributed with it be:

- a. Disclosed or distributed in source code form;
- b. Licensed for the purpose of making derivative works; or
- c. Redistributable at no charge (collectively, "*Open Source License Terms*").

Each party warrants that it will not provide to the other party any computer code (or any intellectual property associated therewith) under this Agreement or otherwise in connection with the MPN that includes any license, right, power or authority to incorporate, modify, combine or distribute that computer code with any other computer code in a manner that would subject the other's computer code to Open Source License Terms.

(vi) Affiliate rights. Company may sublicense the rights in this Section 5 to its Affiliates. However, Company's Affiliates may not sublicense these rights (except to Company's customers as specified in this Section 5).

(vii) Distribution indemnification and additional restrictions. In those instances in which Company is authorized to sublicense any rights or distribute any Microsoft Services Materials or Fixes in this Section 5, such sublicense or distribution must be pursuant to a written agreement that includes the license grant with a statement of ownership and restrictions consistent with the terms of this Agreement. Company remains obligated under this Agreement for its customers' and Affiliates' compliance with the terms of this Section 5. Company will indemnify and hold Microsoft harmless, and defend Microsoft and its suppliers from and against any claims or lawsuits, including attorneys' fees or legal costs, that relate to Company's sublicense or distribution of any Microsoft Services Materials, Fixes, Sample Code, or Pre-Existing Work (collectively, the "*Sublicensed Materials*"), including as arise from:

- a. Company's customers' use of the Sublicensed Materials;
- b. Company's negligent or willfully wrongful acts associated with distribution or marketing of or relating to the Sublicensed Materials;
- c. Any additions or modifications Company or Company's Affiliate makes of the Sublicensed Materials; and
- d. Any use of the Sublicensed Materials in violation of this Agreement.

(ix) Reservation of rights. With respect to Services, all rights not expressly granted to Company in this Section 5(e) are reserved by Microsoft.

(f) Subcontracted Services benefits. Microsoft may deliver the following Services (the "*Subcontracted Services*") on

Company's behalf to Company's Dynamics Customers subject to the terms and conditions set forth in this Agreement and in the Subcontracted Services benefits description available at the MPN Website, or at such other location as Microsoft may designate (the "*Subcontracted Services Description*"):

- (1) Problem Resolution Support: Problem Resolution Support provides assistance for problems with specific symptoms encountered while using Microsoft products, where there is a reasonable expectation that the problems are caused by Microsoft products.
- (2) Advisory Services: Advisory Services provide short-term advice and guidance for problems not covered with Problem Resolution Support as well as requests for proactive and strategic services such as consultative assistance for design, development and deployment issues.

"*Dynamics Customers*" means end users of Microsoft Dynamics products for whom Company provides Microsoft Dynamics product related services. Company must initiate requests on behalf of a Dynamics Customer and coordinate and participate in the delivery of the Subcontracted Services with Microsoft through the resource described in the Subcontracted Services Description. By initiating a support request on behalf of its Dynamics Customer, Company represents that it has obtained consent from such Dynamics Customer to provide the required contact information to Microsoft and for Microsoft to contact the Dynamics Customer. The Subcontracted Services Description is incorporated into and forms part of the Agreement, and may be changed in Microsoft's discretion in the manner described in Section 14(i)(2) below.

(g) Software benefits.

- (1) Company's right to use Products offered to Company under the MPN will be governed by this Agreement and the terms of the license agreement packaged with or otherwise applicable to a Product (see the MPN Website for more details). If there is any direct conflict between this Agreement and any terms of a separate agreement not resolved explicitly on the face of such documents, then the terms of this Agreement will control. If a particular subject is addressed in the separate agreement and not in this Agreement, then the terms of the separate agreement will control.
- (2) Separately, Company will acquire enough Microsoft Product licenses through applicable Microsoft licensing programs to enable Company's use of the Microsoft Product under the specific licensing terms associated with each Microsoft Product, including a sufficient number of licenses to cover:
 - (i) The quantities of the Microsoft Product Company uses; and
 - (ii) The maximum number of users and devices that may access or use the Microsoft Product under Company's agreements with Microsoft or a reseller.

Microsoft may take actions, including the following, to ensure that Company complies with the Agreement and this Section 5(g)(2). Company consents to have Microsoft collect data from the "Windows Genuine Advantage," "Office Genuine Advantage," and other similar programs. (See the MPN Website for more details.) Microsoft may conduct audits under Section 13(a) of this Agreement and may contact Company and/or take actions to prevent Company from using more Products than authorized by this Agreement.

- (3) Company's benefits under the MPN, including Products, may not be distributed to Company's customers,

except for the rights granted in Sections 5(e) and 5(f). Company will inform Microsoft if Company:

- (i) Knows or suspects that a customer does not have enough Microsoft licenses, or
- (ii) Knows or suspects that a customer is violating a Microsoft license agreement.
- (iii) Any Product licenses that Company receives under the MPN will be valid for the Term of this Agreement only.

(h) No technology transfer arrangement. This Agreement does not create a “technology transfer” agreement because:

- (1) The technology (including any Products) made available under this Agreement is not an integrated part of a technology chain for production or management purposes; and
- (2) The technology (including any Products) will have its own technology license. Company will not hold itself out as Microsoft’s technology recipient. Company will not identify Microsoft as a technology provider under this Agreement.

SECTION 6 Trademarks

(a) Limited trademark license. The “*Microsoft Marks*” include those trademarks, logos, symbols, and names identified in the Microsoft logo guidelines on the MPN Website and the Partner Logo Builder Tool. Company must meet criteria explained on the MPN Website to use the Microsoft Marks. Microsoft grants to Company a nonexclusive, nontransferable, limited, royalty-free license to use the applicable Microsoft Marks as long as it meets the criteria on the MPN Website. Microsoft is the sole owner of the Microsoft Marks and all associated intellectual property rights and is the sole beneficiary of any goodwill related to Company’s use of them. Company will:

- (1) Not use any names or trademarks owned by Microsoft, including but not limited to words, phrases, symbols or designs, or combinations thereof that identify or distinguish Microsoft as the source of the products or services, except for the Microsoft Marks referred to in the Microsoft logo guidelines on the MPN Website and the Partner Logo Builder Tool.
- (2) Not acquire any right, title or interest in the Microsoft Marks because of its use of the Microsoft Marks.
- (3) Not register, adopt or use any name, trademark, domain name or other designation that includes any part of a Microsoft Mark, or any term that is confusingly similar to a Microsoft Mark. This includes a translation or transliteration of a Microsoft Mark.
- (4) Use the Microsoft Marks only in connection with Microsoft Materials:
 - (i) In the form Microsoft provides;
 - (ii) For MPN advertising and promotion activities or as permitted in an exhibit; and
 - (iii) According to the terms of this Agreement and the MPN Website.
- (5) Not alter, animate, or distort the Microsoft Marks or combine them with any other names, logos, slogans, symbols, words, images, design elements, or other trademarks.
- (6) Not use any of the Microsoft Marks or Microsoft Materials for the transmission or distribution of unsolicited

commercial e-mail or in any manner that violates local law or custom or conflicts with the Microsoft policies published on <http://microsoft.com> or through the MPN.

- (7) Not use the Microsoft Marks in association with any third-party trademarks in a manner that might suggest co-branding or otherwise create potential confusion as to ownership of the Microsoft Marks.
 - (8) Maintain the quality of the solutions and services Company offers in relation to the Microsoft Marks and the Microsoft Materials at a level commensurate with the quality of services Company offered before the date of this Agreement. The quality of Company solutions and services must also meet or exceed standards of quality and performance generally accepted in the industry.
 - (9) Promptly correct any improper use of the Microsoft Marks and deficiencies in the quality of its solutions and services on notice from Microsoft.
- (b) Referential use of trademarks. Company may use Microsoft's corporate name, technology names, and trademarks in plain text to accurately identify and refer to Microsoft and its technology and Services in accordance with Microsoft's trademark usage guidelines. Company may not use the logos, trade dress, designs, or word marks in stylized form. Such use must not cause confusion about the source of Company's solutions and services or Company's relationship with Microsoft.
- (c) Notices. Company must not remove any copyright, trademark or patent notices in or on Microsoft Materials. Company must include Microsoft's copyright notice on the labels for tangible media containing licensed Microsoft technology. Company must also include Microsoft's copyright notice on documentation for licensed Microsoft technology, Products and Services, including online documentation. Company must use the right trademark, licensed Microsoft technology, Products or Services descriptor and trademark symbol (either "™" or "®") when first mentioning a licensed Microsoft technology name in any advertisement, brochure or other form of communications. The mention must also indicate Microsoft's (or Microsoft supplier's) ownership of the trademark. Microsoft's trademark usage guidelines are located at <http://www.microsoft.com/about/legal/intellectualproperty/trademarks/usage/default.mspx>.
- (d) Right to control. Microsoft has the sole right to, and at its discretion may, control any action concerning the Microsoft Marks and any other Microsoft names or trademarks. Microsoft reserves the right to terminate or modify this license to use the Microsoft Marks and any other Microsoft names or trademarks at any time. Company may not assign, sublicense or otherwise transfer its rights under this section without Microsoft's prior written consent.

SECTION 7 Fees and taxes

- (a) MPN fee.
- (1) Company agrees to pay Microsoft the annual MPN fee (where applicable) and other applicable benefit fees if it qualifies and enrolls in the MPN.
 - (2) In some countries, the MPN fee is for the welcome kit. In these countries, a Microsoft-designated distributor invoices the Company for the welcome kit and sends the kit once the invoice is paid. Price is an estimated price and is subject to variations, such as foreign exchange rates. Company must include a signed, hard copy of this Agreement when it sends its payment for the welcome kit.

(b) Invoicing and payments to Company.

- (1) Overpayments. The amounts and fees to be paid by Microsoft to Company under this Agreement, if applicable, may be adjusted by Microsoft if Company receives an overpayment. Microsoft may deduct any overpayment from future payments owed to Company. Company is responsible for promptly repaying any overpayment. Microsoft may pursue alternative means of collection if the amount of the overpayment is not paid or offset against payments owed to Company within a reasonable time.
- (2) Payment offsets. Company must be current in Company's payment obligations to Microsoft under this Agreement and all other agreements. If Company is not current in such payment obligations, Company will be deemed in breach of this Agreement and, in addition to any other remedies Microsoft may have in relation to such breach, Microsoft may offset payments owed to Company.
- (3) Third parties. Microsoft is not obligated to any third parties who might claim rights under this Agreement. Microsoft will not pay any amounts or fees owed to the Company to any third party other than Company unless ordered to do so by a court of law.

(c) Taxes.

- (1) The amounts to be paid to Microsoft under this Agreement do not include any foreign, U.S. federal, national, state, provincial, local, municipal or other governmental taxes (including without limitation goods and services taxes), stamp or documentary taxes, duties, levies, fees, excises or tariffs, arising as a result of or in connection with the transactions contemplated under this Agreement.
- (2) Neither party is liable for any taxes the other is legally obligated to pay, including but not limited to net income or gross receipts taxes, franchise taxes, and property taxes, which relate to any transactions contemplated under this Agreement. Each party will pay to the other any sales, use or value added taxes it owes due to entering into this Agreement and which the law requires be collected from it by the other party. Neither party will collect taxes covered by a valid exemption certificate provided by the other. Each party agrees to indemnify, defend and hold the other party harmless from any taxes or claims, causes of action, costs (including, without limitation, reasonable attorneys' fees) and any other liabilities related to the indemnifying party's tax obligations.
- (3) If the law requires that taxes be withheld from any payments from one party to the other, such amounts will be withheld and paid to the appropriate taxing authority. The party that withholds such taxes will secure and deliver to the other party an official receipt for those withholdings and other documents reasonably requested by the other party in order to claim a foreign tax credit or refund. The parties will use reasonable efforts to minimize any taxes withheld to the extent allowed by law.
- (4) This Section 7(c) will govern the treatment of all taxes relating to this Agreement, except as explicitly otherwise provided in a Program Exhibit.

SECTION 8 Term and Termination

(a) Term

- (1) This Agreement will take effect on the date Microsoft accepts this Agreement (the "*Effective Date*"). The

Agreement will continue for one year from the Effective Date (the “*Term*”), unless terminated earlier or superseded by a more recent signing of this Agreement. If Company upgrades to a different Membership Opportunity during the Term, the Effective Date will change to the date Microsoft accepts the upgrade.

(2) The term of each Program Exhibit will be coterminous with the Term. Termination of this Agreement will result in the termination of each Program Exhibit executed under it. The termination of, or Company’s ineligibility to participate under, any Program Exhibit, in itself, will not result in the termination of the remainder of the Agreement or any other Program Exhibit, the terms of which will continue to be in full force and effect.

(b) Renewal. This Agreement will not renew automatically. Microsoft may choose not to renew Company’s membership in the MPN. If Company chooses to re-enroll in the MPN on expiration of the Term, Company must do so on the MPN Website. Company is ineligible to re-enroll in the MPN if Microsoft previously terminated Company’s membership

(c) Termination without cause. Either party may terminate this Agreement or a Program Exhibit at any time, without cause, on 30 calendar days’ notice. Company may not terminate the Agreement and remain a participant under any Program Exhibit or Incentive Program.

Termination for cause.

(1) Microsoft may terminate this Agreement immediately (a) if Company no longer sells more than 75 percent of its IT solutions and services to unaffiliated third parties, (b) upon Company making any assignment for the benefit of creditors, filing a petition of bankruptcy or being adjudged bankrupt or becoming insolvent or being placed in the hands of a receiver (or any equivalent of any of these proceedings or acts), (c) upon discovery of any distribution by Company of Microsoft Materials in violation of this Agreement, (d) upon violation of Section 13(d), or (e) upon Company’s infringement, misuse or misappropriation of Microsoft’s intellectual property.

(2) Either party may terminate this Agreement immediately upon the other’s unauthorized disclosure of its Confidential Information.

(3) If either party breaches any provision of this Agreement (other than a breach specified in Sections 8(d)(1) and 8(d)(2)) that is considered curable, the non-breaching party will give 30 calendar days’ e-mail or written notice to the other party and an opportunity to cure its breach. If the cause for termination is not curable, termination will be effective on notice from the non-breaching party. Microsoft retains its other rights and remedies.

Waiver of required approval. To the extent necessary to implement the termination provisions of this Agreement, each party waives any right it has, or obligation that it 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 to effect a variation or termination by using a statutory form.

Effect of termination or expiration. Upon termination or expiration, Company must immediately stop using any rights and benefits granted by this Agreement and the MPN. Microsoft will not be liable to Company for any loss of profits, goodwill, or otherwise arising as a result of such termination or expiration. Except in the event that Company terminates this Agreement for

cause pursuant to Sections 8(d)(2) or 8(d)(3), Company will not be entitled to a refund of any fees or other amounts paid to Microsoft as a result of termination or expiration. Company will do one of the following within 10 days of termination or expiration and at Microsoft's discretion:

- (1) Return all copies of Microsoft Confidential Information, Microsoft Materials and other documents that Company received because of this Agreement; or
- (2) Destroy all such specified documents, Microsoft Confidential Information and Microsoft Materials, including copies, and give Microsoft a certificate of destruction signed by an officer of the Company. Termination of this Agreement will not terminate any unresolved prior support requests. This Agreement will continue to apply until such unresolved requests are resolved or otherwise closed.
- (3) Microsoft may deactivate or otherwise limit Company's Product keys without prior notice when Company's subscriptions and/or competencies expire or are terminated.

Survival. Sections 5(e)(5)(vii) (Distribution indemnification and additional restrictions), 7(c) (Taxes), 8(f) (Effect of termination or expiration), 8(g) (Survival), 9 (Confidentiality and privacy), 10 (Representations and warranties), 11 (Indemnification), 12 (Limitations of liability), 13(a) (Verifying compliance), 13(d) (Anti-piracy), 14 (Miscellaneous) and Microsoft's rights to payment for fees and expenses incurred prior to expiration or termination will survive the expiration or termination of this Agreement, as will those provisions explicitly identified in the Program Exhibits as surviving expiration or termination.

SECTION 9 Confidentiality and privacy

All information exchanged under this Agreement or relating to the MPN is subject to the nondisclosure agreement between the parties, if any, as well as Section 9(e). The following applies if information was exchanged prior to execution of the nondisclosure agreement, there is no existing nondisclosure agreement, or if such existing nondisclosure agreement is terminated or otherwise ceases to be in effect:

- (a) Use of Confidential Information. For a period of five years after initial disclosure:
 - (1) Neither party will disclose the other's Confidential Information to third parties. Each party will use such information only for purposes of performing under this Agreement. Each party will take reasonable steps to protect the other's Confidential Information;
 - (2) Each party may disclose the other's Confidential Information to its Affiliates, employees and contractors. Such party remains responsible for any unauthorized use or disclosure. These disclosures may be made only on a need-to-know basis, subject to the obligations of this section; and
 - (3) In addition to Section 8(f), each party will return Confidential Information to the other party or destroy it at the other's request when it is no longer needed to perform under this Agreement.
- (b) Disclosure if required 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, the disclosing 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.
- (c) Cooperation in the event of disclosure. Each party will immediately notify the other on discovery of unauthorized use

or disclosure of Confidential Information. Each party will help the other party regain possession of the Confidential Information and prevent further unauthorized use or disclosure.

- (d) Right to use feedback. Either party may provide suggestions, comments or other feedback to the other party with respect to the other party's products and services. Feedback is voluntary and, even if designated as confidential, the party receiving feedback may use it for any purpose without obligation of any kind. The party receiving feedback will not disclose the source of feedback without the consent of the party providing it. Unless the parties specifically agree in writing, feedback will not create any confidentiality obligation.
- (e) Customer information privacy and lead generation. Microsoft may assist Company with sales lead generation and support. The assistance may include access to information, tools, templates and reports (e.g., the partner sales management system). Microsoft may also share information with Company that contains customer Personal Information. "*Personally Identifiable Information*" or "*PII*" means any information that can be used to identify, contact, or locate a person, such as a person's name, address, e-mail address or phone number. Company will only use Personal Information received from Microsoft to sell Products or Services of interest to the customer or as otherwise permitted under this Agreement. Company will not use or share customer Personal Information for any other purpose unless Company first obtains customer's consent. Company may only contact customers using their previously indicated preferred means of communication; if Company relies upon a list of e-mail addresses provided by Microsoft to contact customers in Canada, Company must send such e-mails within nine business days of receiving the list from Microsoft. Any such emails sent to customers in Canada must also include an unsubscribe mechanism provided by Microsoft that allows recipients to withdraw their consent from Microsoft or any other partner who Microsoft has authorized to send such messages, and a link to Microsoft's online Privacy Statement. When sending an email to customers in Canada, please use the following opt-out language: "If you would prefer not to receive future promotional emails from Microsoft and its family of companies, or any authorized Microsoft partners, click [here](#). For more information see [Microsoft's Privacy Statement](#)." Company will take reasonable security measures to protect such Personal Information from unauthorized use, access, disclosure, alteration or destruction, including by its vendors. Security measures will include access controls, encryption and any other security means that are legally required or standard for the industry. Company may share leads with Microsoft so that it can assist with Company's promotion and sale of Microsoft Products and Services. Company will comply with all applicable notice or consent laws before sharing the Personal Information with Microsoft. Company agrees to comply with Microsoft's [privacy standards and policy](#). All other Company data disclosed to Microsoft under the MPN will be protected by the Privacy Statement at the MPN Website.

SECTION 10 Representations and warranties Microsoft warrants that it will use reasonable care and skill to administer the MPN. Company's effort and resulting performance are under Company's control. Microsoft does not guarantee Company's satisfaction with the MPN or Company results. Except for loss and damage which cannot be limited or excluded under applicable law:

- (a) Microsoft provides the Microsoft Materials and Fixes to Company "as is," and without warranties of any kind; and
- (b) **DISCLAIMER OF WARRANTIES.** EXCEPT AS PROVIDED HEREIN, MICROSOFT EXPRESSLY DISCLAIMS ALL OTHER EXPRESS, IMPLIED, OR STATUTORY WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. THIS INCLUDES THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

OTHERS THAT MAY BE INCLUDED ARE LACK OF VIRUSES, QUIET ENJOYMENT, SCOPE OF LICENSE, LACK OF ERRORS, SATISFACTORY CONDITION OR QUALITY. THE DISCLAIMER ALSO INCLUDES ANY IMPLIED WARRANTY OR CONDITIONS ARISING FROM COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE.

SECTION 11 Indemnification

Company will defend, indemnify and hold Microsoft and its officers, directors, employees, contractors, Affiliates and agents harmless from any and all claims, suits, demands, costs, liabilities, expenses, damages (including reasonable attorneys' costs and fees) and judgments (or settlements to which Company consents) related to any default or breach or alleged default or breach of this Agreement or any other act or omission by Company relating to its role under this Agreement based on (i) Company's failure to comply with applicable laws, rules or regulations; or (ii) any actual or alleged negligent act or omission, willful misconduct or strict liability of Company. Company will provide Microsoft with reasonably prompt notice of claims, permit Microsoft through mutually acceptable counsel to answer and defend claims, and provide Microsoft with reasonable information and assistance to help Microsoft defend claims at Microsoft's expense. Microsoft has the right to employ separate counsel and participate in the defense of any claim at its own expense. If Microsoft decides to do this, Company and Microsoft will work together in good faith to reach decisions about which both parties agree. Company must have Microsoft's written consent before settling any Company claim or publicizing any settlement. Microsoft will not unreasonably withhold its consent.

SECTION 12 LIMITATIONS OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF DATA, REVENUE, AND/OR PROFITS) ARISING OUT OF OR THAT RELATE IN ANY WAY TO THIS AGREEMENT OR ITS PERFORMANCE. THIS EXCLUSION WILL APPLY REGARDLESS OF THE LEGAL THEORY UPON WHICH ANY CLAIM FOR SUCH DAMAGES IS BASED, WHETHER THE PARTIES HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER SUCH DAMAGES WERE REASONABLY FORESEEABLE, OR WHETHER APPLICATION OF THE EXCLUSION CAUSES ANY REMEDY TO FAIL OF ITS ESSENTIAL PURPOSE. THIS EXCLUSION WILL NOT APPLY TO EITHER PARTY'S LIABILITY FOR BREACH OF ITS CONFIDENTIALITY OBLIGATIONS, COMPANY'S DEFENSE AND INDEMNIFICATION OBLIGATIONS, VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR ANY DIRECT OR INDIRECT LOSS OF PROFITS, DATA, BUSINESS, OR ANTICIPATED SAVINGS DUE TO FRAUD OR GROSS NEGLIGENCE.

SECTION 13 Additional obligations and conditions

(a) Verifying compliance.

(1) Company will keep all usual and proper records in the ordinary course of business relating to its performance of this Agreement. Company will keep documents for the acquisition, delivery and destruction of licensed Products. These documents include:

(i) Products delivered as part of the Microsoft Action Pack Subscriptions; and

(ii) Microsoft volume license product keys that Microsoft authorizes Company to use under this Agreement.

(2) Company will keep these documents during the Term, and for two years after this Agreement ends, except that if Company's principal place of business is in India, Company will keep these documents during the Term

and for eight years after this Agreement ends. During this period, Microsoft's audit team, which may include third party auditors, may audit Company's books, records, operations, processes and facilities for the sole purpose of verifying Company's compliance with this Agreement. To the extent Company acquires Product licenses outside of the MPN ("*Separate Product Licenses*"), compliance verifications will be controlled by the agreements that govern the Separate Product Licenses. Company consents to an audit of its records upon 5 business days' prior notice, except for audits related to counterfeit Products, which does not require prior notice. Microsoft may validate all customer references supplied by Company according to the MPN requirements.

(3) If Company is using Microsoft Materials for training courses, Microsoft or a representative may audit Company's training courses that use Microsoft Materials ("*Microsoft Courses*") without notice. Such audits may include a formal written critique of Company's trainers' software, technical knowledge, and delivery skills. The critique may also review the equipment, facilities, student rosters for Microsoft Courses taught, Microsoft Materials provided to students, and Microsoft Materials inventory. Microsoft will notify Company in writing if it determines that:

(i) Company is not delivering Microsoft Courses in a professional manner;

(ii) Company is not providing an effective learning environment or experience;

(iii) The facilities and equipment are not sufficient for quality training to occur; or

(iv) Microsoft Materials acquisitions for training courses do not match the total number of students trained in Microsoft Courses, Microsoft Courses taught, and current Microsoft Materials inventory. Microsoft may terminate this Agreement if not cured according to Section 8(d) of this Agreement. Microsoft may also terminate Company's Learning competency status.

(4) Audits will be conducted during Company's normal business hours in a manner that does not unreasonably interfere with Company's normal business activities. Company will give the auditor access to the books, records, operations, processes and facilities that the auditor needs to complete a thorough audit. Company will have all applicable books, records and operations available to the auditor at the beginning of the audit if Microsoft provides advance notice. Microsoft and its third party auditors will conduct all inspections accompanied by a Company employee. Company will pay Microsoft's audit costs if an audit uncovers a terminable breach of this Agreement as defined in Section 8(d) or a discrepancy of 5% or more in Company's use of license benefits (measured as amount Company actually paid relative to amount that Company should have paid for Company's use of such licenses) during the applicable audit period. If an audit reveals unlicensed Product use, Company must, at Microsoft's discretion, either remove the unlicensed Product, or acquire the necessary additional licenses at a single retail license cost within 30 days.

(b) Advertising and publicity. Microsoft may only use Company's name, corporate logos, or identity in advertisements or promotions for the MPN with Company's consent. Company will not unreasonably withhold or delay its consent. Company will be deemed to grant its consent if it does not respond to Microsoft's request within 30 days.

(c) Business purposes. Company enters this Agreement and acquires the related Services and Microsoft Materials for

business purposes only.

- (d) Anti-Piracy.
- (1) No unauthorized activities or infringement. Company will (a) not engage or participate in any unauthorized manufacture, duplication, delivery, transfer, or use of counterfeit, pirated, unlicensed, or illegal Microsoft Materials and will enforce strong internal controls to prevent the same by Company's employees; (b) comply with applicable terms relating to the use of any Microsoft Materials; (c) only supply original, licensed Microsoft Materials to customers; (d) not otherwise infringe any of Microsoft's intellectual property rights; and (e) not supply any Microsoft Materials to resellers or customers who engage in the use, manufacture, distribution or other supply or transfer of counterfeit, pirated, or unlicensed Microsoft Materials.
- (2) Cooperation and reporting violations. Company will reasonably co-operate with Microsoft in the investigation of any counterfeit, pirated or illegal Microsoft Materials. Company will promptly report to Microsoft any suspected counterfeiting, piracy, or infringement of copyright, trademarks, patents, or other intellectual property rights in any Microsoft Materials or other intellectual property owned by Microsoft, its affiliates, and/or licensors.
- (e) Reservation of rights. Microsoft reserves all rights not expressly granted in this Agreement.

SECTION 14 Miscellaneous

- (a) Relationship of parties. Any use of the term "partner" is for reference purposes only. The parties are independent contractors. This Agreement does not create an employer-employee relationship, partnership, joint venture, agency relationship or fiduciary relationship and does not create a franchise. Neither Company nor any of its representatives may make any representation, warranty or promise on Microsoft's behalf or otherwise bind Microsoft.
- (b) Notices. Notices may be provided either by electronic or physical mail. The contact person(s) identified during enrollment in the MPN profile will receive notices at the address provided by Company. For notices and requests to Microsoft, notices should be sent to the Microsoft entity identified in Section 14(m). Each party may change the persons to whom notices will be sent by giving notice to the other. Notices are considered delivered on the date shown on the confirmation of delivery. Company will give Microsoft prompt notice if Company becomes insolvent or enters insolvency, bankruptcy or other similar proceedings under applicable laws.
- (c) Applicable law. Applicable law, jurisdiction and venue for this Agreement are identified below. This choice of jurisdiction and venue does not prevent either party from seeking injunctive relief for a violation of intellectual property rights, confidentiality obligations or enforcement of recognition of any award or order. Injunctive relief or enforcement of recognition may be sought in any appropriate jurisdiction. If either party begins litigation in connection with this Agreement, the substantially prevailing party will be entitled to recover its reasonable attorneys' fees, costs and other expenses. The 1980 United Nations Convention on Contracts for the International Sale of Goods does not govern this Agreement.
- (1) Generally. Except as provided in Section 14(c)(2), the laws of the State of Washington govern this Agreement. If federal jurisdiction exists, the parties consent to exclusive jurisdiction and venue in the federal courts in King County, Washington. If not, the parties consent to exclusive jurisdiction and venue in the Superior Court

of King County, Washington.

(2) Other terms. If Company's principal place of business is in one of the countries or regions listed below, the corresponding provision applies and supersedes Section 14(c)(1) to the extent that it is inconsistent:

(i) If Company's principal place of business is in Australia or its external territories, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, Cook Islands, Fiji, French Polynesia, French Southern Territories, Hong Kong S.A.R., India, Indonesia, Kiribati, Lao Peoples Democratic Republic, Macao S.A.R., Malaysia, Maldives, Marshall Islands, Mayotte, Micronesia, Myanmar, Nauru, Nepal, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Philippines, Pitcairn, Samoa, Singapore, Solomon Islands, Sri Lanka, Thailand, Timor-Leste, Tokelau, Tonga, Tuvalu, Wallis and Futuna Islands, Vanuatu or Vietnam, this Agreement is construed and controlled by the laws of Singapore.

a. If Company's principal place of business is in Australia or its external territories, Brunei, Malaysia, New Zealand or Singapore, Company consents to the non-exclusive jurisdiction of the Singapore courts.

b. If Company's principal place of business is in Bangladesh, Hong Kong S.A.R., India, Indonesia, Macao S.A.R., Philippines, Sri Lanka, Thailand or Vietnam, any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, must be referred to and finally resolved by arbitration in Singapore under 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. The language of the arbitration will be English. The decision of the arbitrator will be final, binding and incontestable and may be used as a basis for judgment thereon in Bangladesh, India, Indonesia, Philippines, Sri Lanka, Thailand or Vietnam (as appropriate), or elsewhere. If Company's principal place of business is in India, the courts of New Delhi shall have exclusive jurisdiction to entertain any suits relating to enforcement of the award and/or for award of any interim protection.

(ii) If Company's principal place of business is in Japan, the following applies: The Agreement will be construed and controlled by the laws of Japan. Company consents to exclusive original jurisdiction and venue in the Tokyo District Court.

(iii) If Company's principal place of business is in Afghanistan, Albania, Algeria, Andorra, Angola, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Botswana, Bouvet Island, Bulgaria, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of Sao Tome and Principe, Denmark, Djibouti, Egypt, Estonia, Ethiopia, Faeroe Islands, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Gibraltar, Greece, Greenland, Guadeloupe, Guinea-Bissau, Hungary, Iceland, Ireland, Israel, Italy, Jordan, Kazakhstan, Kenya, Kosovo, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Libya, Macedonia, Madagascar, Malawi, Mali, Malta, Mauritania, Mauritius, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, the Netherlands, New Caledonia, Niger, Nigeria, Norway,

Oman, Pakistan, Poland, Portugal, Qatar, Republic of Cape Verde, Republic of Equatorial Guinea, Republic of Guinea, Republic of Senegal, Reunion, Romania, Russian Federation, Rwandese Republic, Saint Helena, San Marino, Saudi Arabia, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Somalia, South Africa, Spain, Svalbard and Jan Mayen, Swaziland, Sweden, Switzerland, Tajikistan, Tanzania, Togo, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, Uzbekistan, Vatican City State, Yemen, Zaire, Zambia, or Zimbabwe, the following applies:

The Agreement is governed by and construed according to the laws of Ireland. Company consents to the jurisdiction of and venue in the Irish courts in all disputes relating to this Agreement.

(iv) If Company's principal place of business is in the People's Republic of China, the following applies. For purpose of this Agreement, the People's Republic of China does not include Hong Kong S.A.R., Macao S.A.R., or Taiwan:

The Agreement will be construed and controlled by the laws of the People's Republic of China. Company consents to submit any dispute relating to the Agreement and any addendum to binding arbitration. The arbitration will be at the China International Economic and Trade Arbitration Commission in Beijing ("CIETAC") according to its then current rules.

(v) If Company's principal place of business is in Colombia or Uruguay, the following applies:

All disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement will be settled by arbitration. The arbitration will be according to the UNCITRAL Arbitration Rules as presently in force. The appointing authority will be the International Chamber of Commerce ("ICC") acting according to the rules adopted by the ICC for this purpose. The place of arbitration will be Seattle, Washington, U.S.A. There will only be one arbitrator. The award will be in law and not in equity and will be final and binding on the parties. The parties hereto irrevocably agree to submit all matters and disputes arising in connection with this Agreement to arbitration in Seattle, Washington, U.S.A.

(vi) If Company's principal place of business is in Republic of Korea, the following applies: The Agreement will be construed and controlled by the laws of Republic of Korea. Company consents to the exclusive original jurisdiction and venue in the Seoul Central District Court.

(vii) If Company's principal place of business is in Taiwan, the following applies:

The terms of this Agreement will be construed and controlled by the laws of the Republic of China, Taiwan. The parties hereby designate the Taipei District Court as the court of first instance having jurisdiction over any disputes arising out of or in connection with this Agreement.

(d) Compliance with laws and Microsoft policies.

(1) Export restrictions. Each of the parties acknowledges that the hardware and software (collectively, and strictly for the purposes of this Section 14(e), "*Materials*") of the other are subject to U.S. export jurisdiction. Each party will comply with all applicable international, national, and local laws that apply to the other party's Materials or to the transfer, export or re-export of any products sold or distributed under this Agreement, including the U.S. Export Administration Regulations, as well as end-user, end use and destination restrictions

by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>

(2) Compliance with laws and Microsoft Anti-Corruption Policy.

(i) Company Compliance

Company will comply with all applicable laws against bribery, corruption, inaccurate books and records, inadequate internal controls and money-laundering, including the U.S. Foreign Corrupt Practices Act (“*Anti-Corruption Laws*”). Company certifies that it has reviewed and will comply with the Anti-Corruption Policy for Microsoft Representatives located at <http://www.microsoft.com/en-us/Legal/Compliance/anticorruption/Default.aspx>

Company will also provide annual training on compliance with Anti-Corruption Laws to its employees who resell, distribute, market, or otherwise dispose of Products. Company certifies that this Anti-Corruption training has been or will be provided to its employees and, if not, Company agrees to participate annually in Anti-Corruption training made available by Microsoft and certify its completion and understanding. Company will bear the costs of providing or participating in the training.

Company acknowledges that it is prohibited from paying expenses for travel, lodging, gifts or hospitality for government officials on Microsoft’s behalf. Company also acknowledges that it is prohibited from using any funds provided by Microsoft, or any proceeds resulting from any Microsoft business, to pay expenses for travel, lodging, gifts or hospitality for government officials.

(ii) Microsoft Anti-Corruption Related Audit Rights

During the term of this Agreement and for 2 years after the later of either (i) the termination of Microsoft’s Agreement with Company, or (ii) the date of issuance of Microsoft’s final payment to Company, Microsoft or its audit-related agents shall have access to, and the Company shall maintain, any books, documents, records, papers, or other materials of the Company related to this Agreement (the “*Relevant Records*”). Company shall establish and maintain a reasonable accounting system that enables Microsoft and its audit-related agents to identify Company’s assets, expenses, expenditures, costs of goods, margins, discounts, rebates or other payments received, and use of funds related to this Agreement.

Microsoft will provide Company with at least two-days written notice of Microsoft’s intent to exercise its rights under this provision. The Relevant Records and, if requested, relevant employees, shall be made available to Microsoft or its audit-related agents during normal business hours at the Company’s office or place of business. If no such location is available, then the Relevant Records, and if requested, relevant employees, shall be made available at a time and location that Microsoft will determine.

Microsoft may exercise its rights under this provision any time it has a good faith reason to believe that Company or its representatives are in violation of any Anti-Corruption Laws in connection with this Agreement or in any manner that may impact Microsoft or its relationship with Company. In addition, Microsoft may further exercise its rights under this provision for any other reason at any other time not to

exceed once every 12-month period.

- (3) Compliance with the Microsoft Partner Network Statement of Business Principles. Company will comply with the terms of the Microsoft Partner Network Statement of Business Principles as outlined in Exhibit A.
- (e) Assignment. Either party may assign this Agreement to an Affiliate if such party notifies the other in writing. Under circumstances where Company assigns this Agreement to an Affiliate, Company will be fully responsible for ensuring that such Affiliate complies with all applicable terms and conditions of this Agreement. Any other assignment, including by contract, merger, operation of law, or otherwise, requires prior written approval of the other party. Company's assignment to another party will not relieve Company of its obligations under this Agreement. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- (f) Waiver. A party's delay or failure to exercise any right or remedy will not result in a waiver of that or any other right or remedy. No waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.
- (g) Severability. If any court of competent jurisdiction determines that any provision of this Agreement is illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend the Agreement to give effect to the stricken clause to the maximum extent possible.
- (h) Integration and modification.
- (1) Entire Agreement. This Agreement (including the exhibits and any attached or incorporated documents) and the MPN Website form the entire agreement between the parties regarding the MPN. It replaces all prior agreements, communications and representations between the parties regarding the MPN.
- (2) Amendment. Except as explicitly provided in a Program Exhibit, this Agreement, including any exhibit or attached or incorporated document, can be changed by Microsoft from time to time by providing Company with 30 days' notice for any material changes through the MPN Website or through other reasonable means. Company must discontinue its participation in the MPN and terminate this Agreement as provided herein if it does not agree to the revised terms and conditions. Company will be deemed to have accepted such revised terms and conditions by its continued participation in the MPN subsequent to the date such changes take effect. A material change to this Agreement made in any other manner requires an amendment signed by both parties.
- (i) Language. Microsoft offers this Agreement in several languages. The language version in which Company accepts this Agreement will control. If Company is located in Canada, the parties agree that this Agreement, and any associated MPN documentation, be written and signed in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.
- (j) Order of precedence: MPN Website, Addenda. If there is a direct conflict between the Agreement and the MPN Website that is not resolved explicitly on the face of those documents, then the Agreement will control, but only to the extent of that conflict. If a particular subject is addressed in the MPN Website and not in the Agreement, then the terms of the MPN Website will control. If there is a direct conflict between the Agreement and any separate

addendum or exhibit to the Agreement not resolved explicitly on the face of those documents, the terms of the addendum or exhibit will control, but only to the extent of that conflict. If a particular subject is addressed in the addendum or exhibit to the Agreement and not in the Agreement, then the terms of the addendum or exhibit will control.

- (k) No representations. Each party confirms that Microsoft has not made any representation to Company about any Products or Services which Company has relied on, other than as specifically stated in this Agreement. Company has relied on its own skill and judgment (or that of its advisers) in deciding to enter into this Agreement.
- (l) Microsoft contracting entity. The Microsoft contracting entity for this Agreement is determined by the country or region where Company's primary office is located. See details below:

The Microsoft entity for Japan is:

Microsoft Japan Co., Ltd.

Shinagawa Grand Central Tower

2-16-3 Konan, Minato-ku

Tokyo, Japan 108-0075

The Microsoft entity for the Republic of Korea is:

Microsoft Korea, Inc.

Volume Licensing Team

5th FL. West Wing, POSCO Center

892 Daechi-Dong, Gangnam-Gu

Seoul, Korea, 135-777

The Microsoft entity for Taiwan is:

Microsoft Taiwan Corporation

8 Floor, No. 7, Sungren Road,

Taipei 11073, Taiwan

The Microsoft entity for the People's Republic of China is:

Microsoft China Company Limited

1st Floor, Microsoft Tower, LSH Plaza,

8 Wangjing Street, Chaoyang District, Beijing
100102, PRC

The Microsoft entity for the countries/regions listed below is:

Microsoft Regional Sales Corporation

Dept. 551, Volume Licensing

438B Alexandra Road, #04-09/12,

Block B, Alexandra Technopark

Singapore 119968

Australia, Bangladesh, Bhutan, British Indian Ocean Territory, Brunei, Cambodia, Democratic Republic of Timor-Leste, Fiji, Hong Kong SAR, Indonesia, Laos, Macao SAR, Malaysia, Maldives, Myanmar, Nepal, New Zealand, The Philippines, Samoa, Singapore, Solomon Islands, Sri Lanka, Thailand, Vanuatu, and Vietnam.

The Microsoft entity for India is:

Microsoft Corporation (India) Pvt. Ltd.

DLF Cyber Greens, 9th Floor, Tower A

DLF Cyber City, Sector 25 A

Gurgaon 122002

The Microsoft entity for the United States and Canada is:

Microsoft Corporation

Americas Operations Center

6100 Neil Rd.

Reno, NV 89511

The Microsoft entity for the countries/regions listed below is:

Microsoft Ireland Operations Limited

Atrium Building Block B

Carmenhall Road

Sandyford Industrial Estate

Dublin 18, Ireland

Afghanistan, Aland Islands, Albania, Algeria, Andorra, Angola, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Botswana, Bouvet Island, Bulgaria, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Channel Islands, Comoros, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of Congo, Denmark, Djibouti, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Faroe Islands, Finland, France, French Polynesia, Gabon, Gambia, The Gaza Strip, Georgia, Germany, Ghana, Gibraltar, Greece, Greenland, Guinea, Guinea-Bissau, Hungary, Iceland, Iraq, Ireland, Isle of Man, Israel, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, Macedonia, Madagascar, Malawi, Mali, Malta, Mauritania, Mauritius, Mayotte, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Netherlands, New Caledonia, Niger, Nigeria, Norway, Oman, Pakistan, Palestine, Poland, Portugal, Qatar, Reunion, Romania, Russia, Rwanda, San Marino, São Tomé and Príncipe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Somalia, South Africa, Spain, St. Helena, Svalbard and Jan Mayen, Swaziland, Sweden, Switzerland, Tajikistan, Tanzania, Togo, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, Uzbekistan, Vatican City, West Bank, Western Sahara, Yemen, Zambia, and Zimbabwe.

The Microsoft entity for the countries/regions listed below is:

Microsoft Corporation

Americas Operation Center

6100 Neil Rd.

Reno, NV 89511

Anguilla, Antarctica, Antigua and Barbuda, Argentina, Aruba, Bahamas, Barbados, Belize, Bermuda, Bolivia, Brazil, British Virgin Islands, Cayman Islands, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Falkland Islands, French Guiana, Grenada, Guadeloupe, Guatemala, Guyana, Haiti, Honduras, Jamaica, Martinique, Mexico, Montserrat, Bonaire, Curacao, Saba, Saint Eustatius, Saint Maarten, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, St. Kitts and Nevis, St. Lucia, St. Vincent and Grenadines, South Georgia and Sandwich Isles, Suriname, Trinidad and Tobago, Turks and Caicos Islands, Uruguay, Venezuela, and Virgin Islands.

Exhibit A

MICROSOFT PARTNER NETWORK STATEMENT OF BUSINESS PRINCIPLES

The members of the MPN provide customers with Microsoft Products, support and solutions based on Microsoft technologies. Microsoft collaborates with the MPN members in those activities. Therefore, it is important for Microsoft that Company shares Microsoft's values. Company must comply with this Statement of Business Principles. Company will have integrity in all its interactions. Company interacts with a variety of individuals and groups and must be committed to interacting with them in a respectful, ethical manner. Company must ensure that all communications to its customers be truthful, accurate, and not misleading. Company may not make or attempt to make any unauthorized commitment on behalf of Microsoft. Company will run its Microsoft-related business in compliance with its Microsoft agreement(s).

Compliance Acknowledgement. Company acknowledges, as a condition for maintaining its enrollment in the MPN, its obligation to comply with this Statement of Business Principles.

Company will run its business in compliance with applicable laws and regulatory requirements. In addition to any specific obligations under this Agreement or any separate agreement(s), Company must:

- conduct its business activities with Microsoft in full compliance with applicable laws and regulations;
- conduct its business in Microsoft-related activities in full compliance with applicable laws and regulations;
- comply with the laws and regulations that govern the rights to and protection of Microsoft copyrights, trademarks, patents, trade secrets, and other forms of intellectual property;
- honestly and accurately record and report all business information and comply with all applicable laws regarding their completion and accuracy; and
- comply with all applicable anti-bribery laws and must not, directly or indirectly, make or offer bribes, kickbacks, or other payments to any third party for the purpose of wrongfully obtaining or retaining business related to Microsoft Products.

Company Location. Company will ensure that the Location of Company and each of its Affiliates receiving benefits under this Agreement or any other Microsoft Partner Network Agreement signed by Company or its Affiliates are at distinctly different addresses. The addresses used for the MPN must correspond to actual Locations of Company or its Affiliates, and may not be duplicative or misleading in any manner.

Enforcement of and Compliance Verification with the Statement of Business. Microsoft intends to enforce the terms of this Statement of Business Principles in accordance with the terms of this Agreement. In addition, Company is expected to self-monitor its compliance with this Statement of Business Principles.

Reporting Issues. Company may report any issue related to this Statement of Business Principles, including any request by a Microsoft representative for Company to act in a manner that conflicts with this Statement of Business Principles or this Agreement, by using any of the resources listed below. Company is encouraged to work with its primary Microsoft contact in

resolving a business practice or compliance concern. However, Microsoft recognizes that there may be times when this is not possible or appropriate. In such instances, please use any of the following:

- Microsoft Business Conduct Line. The Microsoft Business Conduct Line is a dedicated, toll-free phone line that is available 24 hours a day, 7 days a week, and 365 days a year (phone calls may be made anonymously). It is operated by an external third-party vendor that has trained professionals to take calls in confidence, and report concerns to the Microsoft Director of Compliance for appropriate action.
 - Calls made from inside the United States may be made toll-free to 1-877-320-MSFT (6738).
 - Calls made from outside the United States may be made by accessing an international operator and asking to place a collect call to 1-704-540-0139.
- Confidential E-Mail. A confidential e-mail may be submitted via the Microsoft Integrity Web site. E-mails will be received by a third-party vendor, who will remove contact information before forwarding a summary to the Office of Legal Compliance.
- Letter or Fax. A letter may be sent to the Director of Compliance at Microsoft Corporation, Law and Corporate Affairs, One Microsoft Way, Redmond, WA 98052 or faxed to 1-425-705-2985. Letters and faxes sent to the Director of Compliance may be submitted anonymously if desired.

Microsoft will handle inquiries discreetly and make every effort to maintain, within the limits allowed by the law, the confidentiality of anyone requesting guidance or reporting a possible violation.

Exhibit B

MICROSOFT AUTHORIZED EDUCATION RESELLER AGREEMENT

ACADEMIC VOLUME LICENSING

The following terms and conditions of this Exhibit apply to the Microsoft Authorized Education Reseller program for Academic Volume Licensing. These terms and conditions and the AER Portal (as defined below) are incorporated into and form part of the Agreement, but will only take effect as described under Section 1 (Eligibility and Purpose) below.

1. Eligibility and Purpose. This Exhibit sets out the terms and conditions under which Microsoft may appoint Company as an Authorized Education Reseller (“AER”) and authorize Company to purchase and resell AE Product to Qualified Educational Users (as defined below). Following Company’s acceptance of this Exhibit and completion of all applicable AER requirements set out on the AER Portal, Microsoft will make available to Company an AER “Authorization Certificate” for download. The terms and conditions of this Exhibit will not take effect unless and until Company completes all such requirements. The Authorization Certificate will set out Company’s AER designation and the AER Authorization Date (including any associated details as solely

determined by Microsoft). Please note that certain AE Products may require Company to sign a Microsoft Channel Agreement and its related "Authorization Forms" before Company is able to sell them in the Territory.

2. Additional Definitions. The following definitions apply only to this Exhibit. Capitalized terms that are used but not otherwise defined in this Exhibit will have the definitions assigned to them in the General Terms of the Agreement.

- (a) "AE Product" means Microsoft software licensed under certain Microsoft academic volume licensing agreements as agreed with Microsoft from time to time, including but not limited to the Microsoft Academic Open License Agreement, Open Value Subscription – Education Solutions (OVS-ES), School Agreement, Enrollment for Education Solutions (EES), Academic Select, and Microsoft School Subscription Order (as those terms are defined on the AER Portal).
- (b) "AER Authorization Date" means the date set forth on the AER Authorization Certificate as the date Company became qualified to sell AE Product.
- (c) "AER Portal" means <https://aer.microsoft.com/aer> or any alternative site Microsoft identifies.
- (d) "Authorized Education Reseller" or "AER" means a Microsoft-authorized reseller of AE Product as provided for in this Exhibit.
- (e) "Qualified Educational User" or "QEU" has the meaning set out in the Microsoft Qualified Educational User definition located at <http://www.microsoftvolumelicensing.com/userights/DocumentSearch.aspx?Mode=3&DocumentTypeId=7>, or at such other location as Microsoft may designate. Microsoft may, from time to time and without notice, modify the Microsoft Qualified Educational User definition posted at the site referenced above or a successor site Microsoft identifies.
- (f) "Territory" means a single country or group of countries recognized as a single market in which Company is established such as the European Union (EU) and the European Free Trade Association (EFTA), and Latam New Markets, which includes the following countries: Paraguay, Panama, Jamaica, Turks and Caicos Islands, Cayman Islands, The Bahamas, Belize, Bermuda, Honduras, Nicaragua, Bolivia, Saint Martin, Virgin Islands (British) (*), Anguilla, Antigua and Barbuda, Aruba, St. Kitts and Nevis, St. Lucia, St. Vincent and Grenadines, Suriname, Trinidad & Tobago, Guyana, Haiti, Martinique, Montserrat, Barbados, Cuba, Dominica, French Guiana, Grenada, Guadeloupe, El Salvador, Guatemala, Ecuador, Costa Rica, Dominican Republic, Bonaire, Curacao, Saba, Saint Eustatius, Saint Maarten. This Territory definition does not prohibit QEU use of AE Product outside of the Territory.

(*) Tortola, Virgin Gorda, Anegada and Jost Van Dyke.

3. Company's Rights and Obligations. As of the AER Authorization Date and while Company meets the requirements set out in this Exhibit during the Term, Microsoft appoints Company as a non-exclusive Authorized Education Reseller in the Territory for the Term, subject to the following restrictions:

- (a) Company may purchase AE Product only from Microsoft authorized distributors within the Territory or directly from Microsoft for certain qualified partners and license types.
- (b) Company may distribute AE Product only to QEUs within the Territory for their end use but not for such QEUs to resell. Company may sell AE Product to a qualified educational institution (as stipulated within the QEU definition) for that

educational institution's use, provided Company receives and retains written confirmation that such purchase is solely for the use of the purchasing educational institution. Such proof may be in the form of a purchase order specifically confirming the intended use of the software by the qualified educational institution. Company shall also comply with all other requirements concerning the distribution of AE Product which may be established by Microsoft as a part of the AER program from time to time, as identified on the AER Portal. Company is fully responsible for validating QEU eligibility prior to any distribution of AE Product. Company must retain documentation evidencing its receipt of such proof to validate a purchaser's QEU status in the event of an audit. QEU status validation must be in the following forms:

- (1) Educational Institutions, Administrative Offices or Boards of Education of Educational Institutions:
 - (i) Valid academic purchase order; or
 - (ii) Certificate of accreditation.
 - (2) Public Libraries, Public Museums and Charitable Organizations (in countries where the QEU allows AE Product sales to these institutions): Valid academic purchase order.
- (c) Company will use reasonable efforts to promote AE Product only to Qualified Educational Users. If Company markets AE Product, Company shall do so only with the advertisement or marketing materials for AE Product clearly indicating AE Product is only available for purchase by QEUs. In advertising AE Product, Company must comply with Microsoft's copyright and trademark guidelines, including providing all copyrighted information and assigning applicable trademark information to Microsoft products. Authorized Education Resellers shall not sell academic products on third-party sites, non-academic retail sites, or non-academic auction sites.
- (d) Company represents that at least one (1) of its employees has completed the Microsoft AER license training and passed the Microsoft AER online examination at the AER Portal. Company agrees that during the Term of this Agreement at least one (1) of its employees will maintain the levels of knowledge relating to Microsoft products and academic licensing programs required to pass the Microsoft AER online examination. Microsoft may conduct random testing of AERs to confirm they meet the required levels of knowledge. If other employees are involved in the marketing or sale of AE Product, Company must ensure they are aware of the requirements relating to the sale of such software and that they follow these requirements.

4. AER Logo. With effect from the Effective Date and subject to the obligations and restrictions described under Section 6 of the General Terms of the Agreement, Microsoft grants Company a non-exclusive, non-transferable, personal license to use the AER logo identified and depicted on the AER Portal (i) only during the term of this Exhibit and while Company meets the requirements set out in this Exhibit and (ii) solely on marketing material and signage in connection with Company's sale of AE Product.

5. AER compliance verification. Company's required documentation under Section 13(a) of the General Terms of the Agreement includes but is not limited to documentation confirming its verification of QEU status for each distribution of AE Product made pursuant to this Exhibit. In the event that an audit of Company discloses its distribution of AE Product to any non-QEU(s), or if any breach of its obligations hereunder otherwise results in such distribution, Microsoft may require Company to reimburse Microsoft for the difference between the estimated retail prices for all AE Product so distributed and the estimated retail price for the non-AE Product version of the same product or license titles, without prejudice to any of Microsoft's other

legal or equitable rights or remedies, including but not limited to the right to terminate this Exhibit or the Agreement. Such amounts shall be paid promptly upon receipt of an invoice from Microsoft.

Exhibit C

MICROSOFT ONLINE SERVICES PARTNER AGREEMENT

The following terms and conditions of this Exhibit apply to the Microsoft Online Services Partner Advisor program. These terms and conditions, the Online Services Guide (as defined below), and the Online Services Website (as defined below) are incorporated into and form part of the Agreement, but will only take effect as described under Section 1 (Eligibility and Scope) below.

1. **Eligibility and Scope.** This Exhibit sets out the terms and conditions under which Company may participate as a non-exclusive Online Services advisor ("*Online Services Advisor*") to support Online Services Customers in certain licensing programs and provide certain Online Services to Online Services Customers. To participate as an Online Services Advisor, Company must satisfy each of the participation requirements set out on the Online Services Website (as defined below). The terms and conditions of this Exhibit will not take effect unless and until Company completes all such requirements. Company is entering into this Exhibit for business purposes only.

2. **Additional Definitions.** The following definitions apply only to this Exhibit. Except as set forth below, capitalized terms will have the definitions assigned to them in the General Terms of the Agreement.

(a) "*Distributed Services*" means any type of support, consulting, or online service offered by Microsoft and available for distribution by Company to a Customer on the then-current price list for the applicable Microsoft Volume Licensing program.

(b) "*Fees*" means the fees identified in the Online Services Guide that may be earned by Company pursuant to this Exhibit.

(c) "*Licensed Offerings*" means, collectively, the Licensed Software, Distributed Services, Documentation, Components and Software Assurance available through Microsoft Volume Licensing programs.

(d) "*Licensed Software*" means the Microsoft computer software and other Microsoft software technology on the then-current price list for the applicable Microsoft Volume Licensing program.

(e) "*Online Service(s)*" means the Microsoft hosted services identified in the Online Services Guide for which Company may earn a Fee.

(f) "*Online Services Customer*" means a third party other than Company or its Affiliate that enters into an Online Services Customer Agreement.

(g) "*Online Services Customer Agreement*" means the agreement that Microsoft uses to convey or provide

Licensed Offerings to Customers. It also may include product use rights and an end user license agreement. Microsoft may revise Online Services Customer Agreements for future Online Services Customers on not less than thirty (30) days' notice to Company. An Online Services Customer Agreement also may include an Enrollment form or an Affiliate Registration form submitted by an Online Services Customer to Microsoft to sign up for a licensing program and make an initial selection of Licensed Software or Distributed Services. Online Services Customer Agreements are Confidential Information of Microsoft.

(h) *"Online Services Guide"* means the Online Services Advisor Incentives Guide available at the Online Services Website.

(i) *"Online Services Website"* means <https://mspartner.microsoft.com/en/us/Pages/Solutions/Downloads/online-services-advisor-incentives-guide.aspx> or an alternative site Microsoft designates.

(j) *"Order"* means any order for Online Services for an Online Services Customer submitted to Microsoft via the Microsoft Online Customer Portal at www.microsoft.com/online or an alternate website Microsoft identifies. An Order may comprise one or more Subscriptions for Online Services.

(k) *"Partner of Record"* means the entity that has agreed to the terms of this Microsoft Online Services Partner Agreement and is associated with an Online Services Customer Subscription for an Online Service.

(l) *"Subscription"* means the part of the Order identifying the specific Online Services being ordered.

3. Partner of Record designation and change of Partner of Record. Each Online Services Customer may identify a Partner of Record for each Subscription ship-to address for each distinct Online Service. An Online Services Customer may decide to terminate Company as its Partner of Record for a Subscription under the terms of the Online Services Customer Agreement. Company agrees that Microsoft will have no liability to Company for an Online Services Customer's decision to change its Partner of Record or Online Services Customer's failure to provide proper notice of termination.

4. Online Services Customer Agreements. Microsoft and the Online Services Customer will be the only parties to the Online Services Customer Agreement and any Orders. Company does not have or acquire any title, interest, license or right in or to any Online Services or other Microsoft services under this Exhibit. Company has no authority to vary or negotiate the terms and conditions of any Online Services Customer Agreement or Order, to make any representations or warranties on behalf of Microsoft, or to enter into any Online Services Customer Agreement or Order on behalf of Microsoft. Microsoft, in its sole discretion, determines the prices and other terms of the Online Services Customer Agreement and Orders. Company acknowledges that changes to prices for Online Services in the Online Services Customer Agreement will impact the Fees and that no notice will be provided of such changes.

5. Conditions of Payment of Fees. Company is entitled to receive a Fee only when all of the following terms and conditions are satisfied:

- For all Online Services, if Company orders products on behalf of a customer, Company must enter the customer's credit card and payment information to pay for such an Order. Company will not be entitled to receive any Fees for Orders that it purchases for customers using its own credit card and payment information.
- Company must satisfactorily perform the Online Services specified in the Online Services Guide.

- Company must complete all required training for the Online Services, as defined in the Online Services Guide.
- Company must comply with the terms of the Microsoft Channel Incentives Agreement and the Online Services Incentive Guide.
- Microsoft has received payment from the customer.

Fees may not be earned from Subscriptions of any national, state, provincial or local government except to the extent expressly authorized in the Online Services Guide. Governments include governmental entities and agencies. In many situations, educational institutions and hospitals are owned and operated by governments.

6. Taxation. The amounts to be paid by Microsoft to Company under this Exhibit include any applicable foreign, U.S. federal, state, or other governmental taxes. Microsoft is not liable for any of the taxes that Company is legally obligated to pay or which are incurred or arise in connection with or related to the sale of goods and services, or the payment of fees, under this Exhibit. All such taxes (including but not limited to net income or gross receipts taxes, sale, use, value added and similar taxes, and property taxes) shall be the financial responsibility of Company. Company agrees to indemnify, defend and hold Microsoft harmless from Company's taxes or claims, causes of action, costs (including, without limitation, reasonable attorneys' fees) and any other liabilities of any nature whatsoever related to such taxes.

The terms of this taxation section shall control if there is a conflict between this section and Section 7(c) of the General Terms of the Agreement.

7. Company's role as Partner of Record and additional obligations.

(a) Relationship of Partner of Record role with other roles. Some Partners of Record may also be appointed, among other things, as Large Account Resellers or Distributors for Microsoft, Enterprise Software Advisors, Services Providers (as those terms are defined on the MPN Website), or as value added resellers of Microsoft Products. If applicable, Company agrees that its rights and obligations under this Exhibit are separate and distinct from Company's role under any other agreement or in any other relationship with Microsoft.

(b) Compliance with Laws; Conflicts of Interest. In situations where Company is receiving any compensation (money or otherwise) from an Online Services Customer for advisory services, or where Company otherwise has a fiduciary relationship with an Online Services Customer, Company will not request or accept fees from Microsoft under this Exhibit; especially where an Online Services Customer is a government entity. Company will comply with all applicable conflict of interest and other laws relating to its acceptance of fees under this Exhibit.

8. Indemnity obligations.

(a) Defense of infringement claims. Microsoft will defend Company in a lawsuit in which a third party claims that the Online Services infringes its copyright, trademark or patent rights or misappropriates its trade secrets within countries in which Microsoft enters into Online Services Customer Agreements with Online Services Customers. If there is an adverse final judgment (or settlement to which Microsoft consents) from the lawsuit, Microsoft will pay it for Company. The third party may not be Company's Affiliate. The terms "misappropriation" and "trade secret" will have the meanings defined in the Uniform Trade Secret Act, except if this Agreement is governed by the laws of a jurisdiction outside the United States, in which case "misappropriation" will mean "intentionally unlawful use" and "trade secret" will mean "undisclosed information" as specified in Article 39.2 of the Agreement on Trade Related

Aspects of Intellectual Property Rights.

Microsoft's defense obligations are subject to the following conditions: (i) Company must promptly notify Microsoft in writing of the claim; (ii) Microsoft will have sole control over defense and/or settlement of the claim; (iii) Company will provide Microsoft with reasonable assistance in the defense of the claim; and (iv) Microsoft's obligations to defend and pay a patent claim will be limited to patent claims where the Online Services alone, without combination or modification, constitutes direct or contributory infringement of the patent.

- (b) Limitations on Microsoft's defense obligation. Microsoft will not be liable for any claim to the extent that the claim or adverse final judgment is based on Company's: (i) distribution or use of any product or mark after Microsoft notifies Company to stop distribution or use of the product or mark due to such a claim; (ii) combination of a product with any non-Microsoft product, data or business process; (iii) damages attributable to the value of the use of a non-Microsoft product, data or business process; (iv) alteration of any Online Services; (v) use of Microsoft's mark(s) without Microsoft's written consent to do so; or (vi) for any trade secret claim, acquiring a trade secret (A) through improper means, (B) under circumstances giving rise to a duty to maintain its secrecy or limit its use, or (C) from a person who had a duty to maintain its secrecy or limit its use. Company will reimburse Microsoft for any costs or damages that result from these actions.
- (c) Microsoft's options. If Microsoft receives information concerning an infringement claim relating to Online Services, Microsoft may, at its expense, but without obligation to do so: (i) procure for Company the right(s) or license(s) as may be necessary to address the claim; (ii) replace the Online Services or mark with a functional equivalent; or (iii) modify the Online Services or mark to make it non-infringing. With regard to (ii) or (iii), Company must immediately stop distributing the allegedly infringing Online Services or use of the allegedly infringing mark. Company will work with Microsoft to recall all Online Services that is the subject of a claim and replace it with the non-infringing alternative. If any other type of third party claim is brought against Company regarding Microsoft's intellectual property, Company must notify Microsoft promptly in writing. Microsoft may, at Microsoft's option, choose to treat these claims as being covered by this section. This section provides Company's only remedy for third party intellectual property infringement and trade secret misappropriation claims.
- (d) Company's indemnification obligations; Refund of fees for breach. In addition to Company's obligations under Section 11 of the General Terms, Company shall indemnify and defend Microsoft for all claims, costs, damages and other liabilities arising from or related to its breach of the requirements of Section 7(b) of this Exhibit. If Company materially breaches the requirements of Section 7(b) of this Exhibit, Company must refund to Microsoft any Fees Company has received under the Exhibit. Microsoft also retains all other legal and equitable remedies.

9. Limitations on and exclusions of damages.

- (a) Limitation. Unless applicable law requires otherwise, the only remedy that either party will have for anything related to this Exhibit is to obtain direct damages from the liable party up to the amount actually paid by Microsoft to Company during the prior one year period, minus any amounts paid by the liable party during that same period for any prior liability. Neither party can recover any other damages from the other, including consequential, lost profits, special, indirect or incidental damages.

The limitations in this section apply to: (i) anything related to the Online Services; and (ii) claims for breach of contract,

breach of warranty, strict liability, negligence or other tort to the extent permitted by applicable law. It also applies even if Company is not fully compensated for any losses, or Microsoft knew or should have known about the possibility of damages.

The limitations do not apply to claims for fraud, breach of confidentiality, Company's violation of Microsoft's intellectual property rights, death or personal injury caused by negligence, Company's indemnification obligations, Microsoft's defense of infringement claims and failure to obey the law. Each party's liability for loss or damage of any kind (including loss or damage caused by negligence) is reduced to the extent that the other party or its agents caused or contributed to that loss or damage.

- (b) When these exclusions may not apply. The provisions of any local law which implies terms into this Exhibit will not apply to the extent that local law permits the parties to contract-out of the law. However, the limitations and exclusions in this Exhibit do not change Company's rights if the laws of Company's state or country do not allow these limitations or exclusions. For example, the limitations on liability may not apply to Company if applicable law does not allow it.

10. Retention and termination of Online Services Customers by Microsoft.

- (a) Termination of Online Services Customers by Microsoft. At any time during the term of this Exhibit, Microsoft may terminate any Online Services Customer's status as an Online Services Customer for any reason permitted under its Online Services Customer Agreement. Termination will not affect Microsoft's right to invoice the Online Services Customer for the Order, or Online Services Customer's obligation to pay Microsoft. If Microsoft terminates an Online Services Customer, Company will not have any claim against Microsoft for any compensation, damages or lost profits resulting from the termination. If Microsoft terminates an Online Services Customer, and Company has received Fees but has not fully performed the Online Services for that Online Services Customer, Microsoft may offset a proportional amount of the Fee paid against future Fees.

- (b) Retention of Online Services Customers. When this Exhibit ends or is terminated, Microsoft will have the right, at its sole discretion, to direct all of the Online Services Customers for whom Company has been acting as a Partner of Record to a newly designated Partner of Record. If that happens, Company will not, under any circumstances, be entitled to any Fee or any portion of the Fee after the effective date of the termination or expiration. This provision will survive expiration or termination of this Exhibit.

11. Changes to the Guide. Microsoft may change the Online Services Guide from time to time without Company's approval. Microsoft will provide 30 days' prior notice for changes to Fees and for all other material changes to the Online Services Guide, including the addition of new Online Services and associated Fees.