
Microsoft Aggregate Agreement 24-02 Terms and Conditions

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A. OVERVIEW.

This Microsoft Aggregate Agreement 24-02 (“Aggregate Agreement”) is established under and governed by the terms and conditions of OGS Group 73600 Award 22802 Information Technology Umbrella Contract – Manufacturer Based (Statewide) Contract PM69723 and all amendments and addenda thereto (“Contract”). The following Aggregate Agreement terms shall apply to all new and renewal Enrollments established pursuant to the Aggregate Agreement under Contract PM69723. Migrated Enrollments are not included in this Aggregate Agreement (see Microsoft Business Terms Agreement Section 2.6 - Appendix B Additional Or Alternative Terms to Appendix B for additional information regarding Migration Enrollments).

OGS and Microsoft have agreed to a Microsoft Business Terms Agreement (“MBT”), which includes certain additional or alternative terms and conditions made in accordance with Section 28 of Appendix B of Contract PM69723 for purposes of the Aggregate Agreement and establishes the overall licensing framework and the applicable terms and conditions for Authorized User use and acquisition of Microsoft Product, which is limited to software and certain Online Services, as set forth in the MBT and further described below.

All purchases resulting from this Aggregate Agreement shall be in accordance with the terms and conditions of the Contract and the MBT (set forth as Appendix 1) including all appendices and Program Agreements, and any subsequent updates and amendments to the Contract and MBT.

B. DEFINITIONS.

In addition to the terms defined elsewhere, the following definitions shall apply in this Aggregate Agreement:

Term	Definition
Aggregate Agreement Price	Cost Minus or Cost Plus Percentage applied to Net Reseller Cost. Each SKU in a Price List has an Aggregate Agreement Price.
Authorized User	For purpose of this document, Authorized User shall mean the same as “Enrolled Customer” as defined below.
Enrolled Customer	An Affiliate that has entered into an Enrollment or Affiliate Registration Form. Please note that an Enrolled Customer could be referred to as an Enrolled Affiliate or Registered Affiliate in the Program Agreements, Enrollments and Affiliate Registration Forms, or as a Participant in the Consortia Amendment to the Campus and School Agreement.
Enrollment	For purpose of this document, the term Enrollment refers to Enrollments and Affiliate Registration Forms as defined in the MBT Section 1.8 Definitions.

Microsoft NYS Price	Net price extended to NYS from Microsoft for each SKU on their NYS Price List, NYS Net Contract Price found in Manufacturer Umbrella Contract PM69723 Appendix E. Microsoft NYS Prices are Not-to-Exceed prices and apply to all purchases under the Contract, including purchases made pursuant to an Aggregate Agreement
Net Reseller Cost	The confidential price Microsoft charges its Reseller(s) for a SKU.

C. SCOPE

Products authorized by OGS for acquisition under this Aggregate Agreement are Microsoft Software and certain Online Services as detailed below.

Software.

All Products classified by Microsoft as Software are authorized for acquisition under this Aggregate Agreement, except as specifically excluded by OGS. OGS reserves the right in its sole discretion to add or remove Products from the scope of the Aggregate Agreement at any time during the term of the Aggregate Agreement, upon notice to the Reseller/Contractor.

Online Services.

Online Services authorized for acquisition under the Aggregate Agreement are limited to Office 365, Azure, Intune, Dynamic CRM, and Github Enterprise. The only Online Services authorized for acquisition under the Aggregate Agreement for use with Criminal Justice Information Services (“CJIS”) data are Office 365, Azure, and CRM. All other Online Services are **not** authorized for acquisition. OGS reserves the right in its sole discretion to add or remove Products from the scope of the Aggregate Agreement at any time during the term of the Aggregate Agreement, upon notice to the Reseller/Contractor.

Out-Of-Scope.

The following are expressly excluded from the scope of this Aggregate Agreement:

- Any items considered out of scope for the MBT, as indicated in the Out-of-Scope Work and Products section included in MBT Section 1.7.
- Paid training services.

D. NYS COMPTROLLER APPROVAL AND EFFECTIVE DATE.

In accordance with Section 112 of the State Finance Law, this Aggregate Agreement shall not be valid, effective, or binding upon the State until the Aggregate Agreement has been executed by all parties and approved by the Office of the New York State Comptroller (“OSC”). The effective date of the Aggregate Agreement will be the date of OSC approval. Purchase Orders or other procurement transactions issued pursuant to this approved Aggregate Agreement may also be subject to OSC approval.

This Aggregate Agreement is filed with OSC as a Centralized RFQ under the OGS Microsoft Manufacturer Umbrella Contract PM69723.

E. COMMENCEMENT OF SALES.

The awarded Reseller may commence sales from this Aggregate Agreement only upon OGS acceptance and posting of the Aggregate Agreement to the OGS Procurement Services website.

F. AGGREGATE AGREEMENT TERM.

The term of this Aggregate Agreement shall be five (5) years. The term shall not commence until OGS execution, final approval by OSC, and posting of the final executed documents to the OGS Procurement Services website. OGS reserves the right, at its sole discretion, to extend the Aggregate Agreement for a period of up to an additional one (1) year upon written notice to Reseller and Microsoft. However, the term and all extensions for the Aggregate Agreement shall terminate upon expiration or termination of the MBT.

1. SHORT TERM EXTENSION.

OGS reserves the right to seek an additional short-term extension for the Aggregate Agreement in accordance with Manufacturer Umbrella Contract, Section 2.18, Short Term Extension:

In the event a replacement Aggregate Agreement has not been issued, any Aggregate Agreement let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to three (3) months upon notice to the Reseller and Microsoft with the same terms and conditions as the original Aggregate Agreement including, but not limited to, prices and delivery requirements. With the concurrence of the Reseller and Microsoft, the extension may be for a period of up to six (6) months in lieu of three (3) months. However, this extension terminates should a replacement Aggregate Agreement be issued in the interim.

G. AGGREGATE AGREEMENT ORDER OF PRECEDENCE.

Order of Precedence for this Aggregate Agreement will be as stated in MBT Section 2.2 Aggregate Agreement Documents/Conflicts of Terms.

H. RESELLER QUALIFICATIONS.

Reseller must meet all of the following requirements:

- Reseller must be a current Reseller on Microsoft's Manufacturer Umbrella Contract PM69723
- Reseller must be certified by Microsoft as both a Licensing Solutions Partner (LSP) and as an Authorized Educational Reseller (AER)
- Reseller must be authorized by Microsoft to provide the entire Microsoft Product line available in Lot 1 (Software) and Lot 3 (Cloud) for Microsoft's Manufacturer Umbrella Contract PM69723
- Reseller must have the financial stability to service this Aggregate Agreement

Reseller must maintain all eligibility criteria through this Aggregate Agreement term. OGS reserves the right to request demonstration of all eligibility criteria, and to cancel an

award to a Reseller that does not comply with a request from OGS to demonstrate eligibility.

I. AGGREGATE AGREEMENT ADMINISTRATOR AND OTHER CONTACTS.

Reseller shall designate a dedicated Aggregate Agreement administrator to serve throughout the duration of the Aggregate Agreement term and to support the updating and management of the Aggregate Agreement on a timely basis. The Aggregate Agreement administrator must have a minimum of five (5) years of experience administering contracts. The Aggregate Agreement administrator also must have experience managing large scale accounts.

Reseller must notify OGS within five (5) business days if its Aggregate Agreement administrator changes and provide an interim contact person until the position is filled. The interim contact person and the replacement Aggregate Agreement administrator must meet the minimum qualifications stated above. OGS reserves the right to reject a replacement Aggregate Agreement administrator proposed by the Reseller. Changes to Reseller contact information, including the designation of a new Aggregate Agreement administrator, shall be submitted via e-mail using Appendix 2, Aggregate Agreement Modification Procedure.

Reseller must also provide additional contacts as specified in Appendix 7 for the Aggregate Agreement and maintain a toll-free telephone and/or online functionality for customer support.

J. AUTHORIZED USER TERMS AND CONDITIONS.

OGS and Microsoft have agreed to a Microsoft Business Terms Agreement (MBT), which includes certain additional or alternative terms and conditions made in accordance with Section 28 of Appendix B of Contract PM69723 for purposes of the Aggregate Agreement. Authorized Users of the Aggregate Agreement may propose terms and conditions specific to their Enrollment. Any such terms and conditions must be presented to Microsoft for consideration prior to entering into an Enrollment.

K. DISPUTE RESOLUTION PROCESS.

Disputes between the Contractor and OGS regarding this Aggregate Agreement will be considered and decided by OGS in accordance with Contract PM69723 Appendix B, Section 64(Disputes).

Disputes regarding a Purchase order, Enrollment, or other transaction under the Aggregate Agreement will be considered and decided by the Authorized User in accordance with the MBT Section 2.6.K.

L. AGGREGATE AGREEMENT ADMINISTRATION.

1. How to Use and FAQ.

Reseller must assist in modifying the "How to Use" and "FAQ" documents, as needed, during the duration of this Aggregate Agreement. OGS reserves the right to use the answers provided in whole or in part to make

updates to the How to Use and FAQ documents.

2. Product Quotes.

Reseller must provide quotes for Product within a maximum of two (2) business days after receiving a request for a quote for Product listed on the Aggregate Agreement Price List, and honor all quotes for thirty (30) calendar days, regardless of any price increases.

3. Responsibility to Inform.

Reseller must adhere to and provide the following relating to the provision of information to Authorized Users:

It is essential that Authorized Users fully understand the nature of Products being offered or provided under the Enrollment prior to issuing a Purchase Order. Accordingly, Reseller is required to fully answer any questions an Authorized User may have regarding all Products offered and upon request, must provide a full written description of the Product.

Reseller shall provide Microsoft-specific available information, as appropriate, to the Authorized User to facilitate a determination as to whether an offering complies with the Authorized User's statutory and regulatory requirements and is within the scope of this Aggregate Agreement. This includes, but is not limited to, Microsoft's data protection and privacy protocols and protocols for Authorized User transfer of data at the end of the Enrollment/Affiliate Registration Form term.

Upon request of the Authorized User, Reseller shall provide for all Online Services, a chart of all roles and responsibilities pertaining to security, data ownership, encryption, and data location, including backup.

Reseller must provide to the Authorized User a copy of the MBT at the time of an executed Enrollment/Affiliate Registration Form.

4. Authorized User Refunds.

In the event of termination of service for any reason, Reseller will reimburse Authorized Users for any prepaid amount that has been applied to the portion of the service that has been terminated.

5. Service Credits for Online Services.

Reseller must, on behalf of an Authorized User, facilitate and submit any claims for service credit for Online Services to Microsoft.

Authorized User must provide to Reseller all information necessary for Microsoft to validate the claim, including but not limited to:

- (i) a detailed description of the Incident;
- (ii) information regarding the time and duration of the Downtime;
- (iii) the number and location(s) of affected users (if applicable); and
- (iv) descriptions of the Authorized User's attempts to resolve the Incident at the time of occurrence

In the event Microsoft grants a claim for service credit, the Authorized User will receive that service credit directly from Reseller.

6. Report of Aggregate Agreement Sales.

Reseller shall report sales pursuant to this Aggregate Agreement in accordance with the Sales Reporting requirements outlined in the Manufacturer Umbrella Contract PM69723, Section 2.23 Sales Reporting Requirements. In addition, Reseller shall submit notice of submitting sales reports to the OGS Contract Administrator for the Aggregate Agreement within 5 days of submittal, using Aggregate Agreement Appendix 4, Report of Aggregate Agreement Sales. If requested by OGS, Reseller shall also provide OGS with a report of all sales for any requested time period(s) requested by utilizing the “Appendix 4 - Report of Aggregate Agreement Sales” template.

The additional report, if requested, is to be submitted for the time period(s) requested by the requested due date, electronically in Microsoft Excel format unprotected, via e-mail to the attention of the designated OGS Procurement Services Contract Administrator for the Microsoft Aggregate Agreement. OGS reserves the right to amend the “Appendix 4 - Report of Aggregate Agreement Sales” template or to require sales to be reported in a different format. Further, additional related sales information and/or detailed Authorized User purchases may be required by OGS and must be supplied upon request.

7. Net Reseller Cost Verification.

Upon request from OGS, Reseller will disclose the price it pays to Microsoft for Products sold under this Aggregate Agreement.

8. Program Agreements, Enrollments, and Affiliate Registration Forms.

As part of the MBT between OGS and Microsoft, Custom Program Agreements, Enrollments and Affiliate Registration Forms have been established for use by the Authorized Users of this Aggregate Agreement. Reseller must utilize these custom forms and documents for transactions under this Aggregate Agreement.

9. Aggregate Agreement Price List.

Reseller shall use Appendix 3, Aggregate Agreement Price List, as the price list format.

Category Discount

#	MICROSOFT PROGRAM AGREEMENTS	MICROSOFT PRICE LEVEL	CATEGORY DISCOUNT
1	Enterprise Agreement Program Agreement	Level D	0.000000%

2	Select Plus License Program Agreement (State and Local Government)	Level D	0.750000%
3	Campus and School Agreement Program Agreement	Level A,B,C,D (varies by organization count)	-1.500000%
4	Academic Select Plus License Program Agreement	Level A	0.750000%

10. Aggregate Agreement Price List Updates.

Reseller shall update the Aggregate Agreement Price List document on a monthly basis, submitting all required documentation by the 10th of each month, to reflect additions, deletions, or updates to SKUs, and increases or decreases in Microsoft NYS Price and Aggregate Agreement Price. Appendix 2, Aggregate Agreement Modification Procedure must be submitted with all Aggregate Agreement Price List updates.

The Aggregate Agreement Price List shall be updated for each required monthly update and as-needed so that it remains current. OGS reserves the right to request an updated Aggregate Agreement Price List from the Reseller at any time.

M. INDEFINITE DELIVERY/INDEFINITE QUANTITY.

This Aggregate Agreement is an Indefinite Delivery, Indefinite Quantity (IDIQ) award. Please refer to Appendix 1, Microsoft Business Terms Section 1.5 Indefinite Delivery/Indefinite Quantity. Reseller must furnish all quantities actually ordered by Authorized Users at or below the Aggregate Agreement price.

N. OGS RESERVED RIGHTS.

New York State reserves the right to:

- Unilaterally make non-material revisions, changes and/or updates to any templates, Appendices (excluding Appendices A and B) and/or Attachments to this Aggregate Agreement without processing a formal amendment and/or modification.

O. MODIFICATIONS TO AGGREGATE AGREEMENT.

1. AGREEMENT MODIFICATIONS.

- a. All modifications proposed by Reseller shall be processed in accordance with Appendix 2, Aggregate Agreement Modification Procedure. Reseller shall submit all requests in the form and format contained in Appendix 2, Aggregate Agreement Modification Procedure. OGS reserves the right to make non-material revisions to Appendix 2, Aggregate Agreement Modification Procedure during the Aggregate Agreement term, without seeking a formal Aggregate Agreement amendment. OGS will notify

Reseller of any such revisions, and such revisions shall then be deemed incorporated in this Aggregate Agreement as of the date of notification.

- b. During the term of the Aggregate Agreement, price increases and decreases shall be processed in accordance with Appendix 2, Aggregate Agreement Modification Procedure. Aggregate Agreement prices will increase or decrease by the Reseller applying the applicable Program Agreement Category Discount to the new Net Reseller Cost. Net Reseller Cost changes must be reflected in any Aggregate Agreement Price List updates. Any change in pricing may only take effect upon OGS approval and notice to Reseller, even if it is not immediately posted to the OGS website. Reseller may submit a request to decrease prices on the Aggregate Agreement Price List at any time during the Aggregate Agreement term. For individual transactions, Reseller may offer more favorable prices than those listed on the Aggregate Agreement Price List at any time. Category Discounts that are more favorable to the Authorized User will be permitted at any time. Category Discounts that are less favorable to the Authorized User are expressly prohibited under this Aggregate Agreement..

2. CHANGE OF RESELLER.

In the event that a new Reseller is required, OGS reserves the right to then make a new Aggregate Agreement Award to the RFQ 24-02 Bidder with the next highest Final Financial Response Score that is willing to accept an Aggregate Agreement award without issuing a new RFQ. The new Aggregate Agreement awardee will be required to maintain the Category Discount included in the Bidder's original Bid submission, which will then be applied to the then-current Net Reseller Cost to determine the new Aggregate Agreement Pricing. Under no circumstances will the Bidder with the next highest Final Financial Response Score be permitted to decrease the Cost Minus or increase the Cost Plus Percentages included with its initial Bid submission.

P. INVOICING.

1. All invoices shall at a minimum, include the items listed below and any additional information identified in the Authorized User Purchase Order and any resulting Authorized User Agreement:
 - Manufacturer Umbrella Contract Number: PM69723
 - RFQ Number: 24-02
 - RFQ Title: Microsoft Aggregate Agreement 24-02
 - Reseller Name
 - NYS Vendor ID
 - Manufacturer Part Number (SKU)
 - Product Name
 - Product Description
 - Quantity

- Aggregate Agreement Price for each Product SKU
- Specific designation of special price(s) which may be better than the Agreement price
- Invoice Total

Signature Page

This Page is to be Completed By the Reseller Acknowledging award under RFQ 24-02 Microsoft Aggregate Agreement and agreeing to this Microsoft Aggregate Agreement 24-02 (Statewide).

This Document must be fully and properly executed by a person authorized to legally bind the Reseller. The undersigned certifies that s/he is authorized to bind the Reseller, that the Reseller accepts and acknowledges this Agreement, and that all information provided is complete, true and accurate.

SHI International Corp.

**THE PEOPLE OF THE STATE OF NEW YORK,
ACTING BY AND THROUGH THE COMMISSIONER
OF GENERAL SERVICES**

Signature:

Signature:



Printed Name:

Printed Name:

Kristina Mann

Kylesha N. Davis

Title:

Title:

Sr. Manager - Contracts

**Assistant Director
OGS Procurement Services, IT & Telecom**

Date:

Date:

5/9/2024

5/24/24

Federal ID:

22-3009648

NYS Vendor ID:

1000008811

Contract:

PM69723

NYS OFFICE OF THE STATE COMPTROLLER

APPROVED
DEPT. OF AUDIT & CONTROL

Jun 20 2024
Christopher Forman

FOR THE STATE COMPTROLLER

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF New Jersey
: **SS.:**
COUNTY OF Somerset

On the 9th day of May in the year 2024, before me personally appeared Kristina Mann, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that she maintains an office at 290 Davidson Ave
Somerset, NJ 08873, and further that:

[Check One]

- If an individual):** __executed the foregoing instrument in their name and on their own behalf.
- If a corporation):** Kristina Mann, is the Sr. Manager of Contracts of SHI International Corp., the corporation described in said instrument; that, by authority of the ~~Board of Directors~~ President of said corporation, she is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, she executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- If a partnership):** __ is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, they are authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, they executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- If a limited liability company):** __ is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that they are authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, they executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Michael Drecolias

Notary Public
Registration No.

