Microsoft | Volume Licensing

Proposal ID | 000-TSOWA-S-19000-D

Academic Select Plus Agreement

Custom Program Agreement Terms and Conditions

Contents

This Microsoft Academic Select Plus Agreement is entered into betwee.n the entities identified on the signature form.

Effective date. The effective date of this agreement is the effective date of the first Affiliate Registration Form or the date Microsoft accepts this agreement, whichever is earlier.

This agreement consists of (1) the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984) and these terms and conditions and the signature form, (2) the Product Terms, (3) the Online Services Terms, (4) any Affiliate registration entered into under this agreement, and (5) any Order submitted under this agreement.

Please note: Documents referenced in this agreement but not attached to the signature form may be found at http://www.microsoft.com/licensing/contracts and are incorporated in this agreement by reference, including the Product Terms, the Online Services Terms, and the Qualified Educational User definition (as defined in Appendix E to the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984)). These documents may contain additional terms and conditions for Products licensed under this agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed and Services ordered.

The parties agree to be bound by the terms of this agreement.

Terms and Conditions

1.   Definitions.

In this agreement, "Institution or Institution's Affiliate" means the entity that is a qualified educational user identified in Appendix E to the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984) as of the effective date of this agreement and that has entered into this agreement with Microsoft by submitting an Affiliate Registration Form, and "Microsoft" means the Microsoft entity that has entered into this agreement by accepting Institution's registration and its Affiliates, as appropriate.

Notwithstanding any other definitions to the contrary described in the Custom Microsoft Business Agreement (OGS Contract No. PS67984), in this Select Plus Agreement the following definitions apply:

"Affiliate" shall have the definition as set forth in Section 1.8(B) and (C) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

 "available" means, with respect to a Product, that Microsoft has made Licenses for that Product available for ordering under a particular licensing program.

"Fix" means Product fixes, modifications, or enhancements or their derivatives that Microsoft either releases generally (such as service packs) or that Microsoft provides to Institution when performing Services to address a specific issue.

"Institution" means the entity that is a Qualified Educational User (as defined in Appendix E to the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984)) as of the effective date of this agreement that has entered into this agreement with Microsoft or an Affiliate of Institution that has entered into an Affiliate Registration Form under this Agreement.

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

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

"Online Services" shall have the definition as set forth in Section 1.8 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

"Order" means the document Institution or Institution's Affiliate submits under this agreement to acquire Licenses.

"Product" shall have the definition as set forth in Section 1.8 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

"Product Terms" shall have the definition set forth in Section 1.8 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

 "Qualifying Contract" means a Campus or School Enrollment under a Microsoft Campus and School Agreement or an Academic Select Agreement.

"Qualified Desktop" means any device that is used for the benefit of Institution's organization or by or for the benefit of Students enrolled in Institution's organization and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment) or (2) a device used to access a virtual desktop infrastructure ("VDI"). Qualified Desktops do not include any device that is: (1) designated as a server and not used as a personal computer, (2) an Industry Device, or (3) not managed (as defined in the Product Terms at the start of the applicable term) by Institution's organization.

"Registered Affiliate" means an entity, either Institution or any one of Institution's Affiliates, identified on an Affiliate Registration Form that has been accepted by Microsoft under this agreement.

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

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

"Software Assurance" shall have the definition as set forth in Section 1.8 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

"Software Updates" means additional or replacement code for any portion of a Product that Microsoft may make available to the general public without a fee from time to time.

2. How the Academic Select Plus License program works.

The Academic Select Plus License program allows Registered Affiliates to order Licenses and services at academic pricing. Registered Affiliate can participate in this program if it (1) submits a minimum qualifying Order as defined in the Product Terms, (2) identifies and maintains at least one active Qualifying Contract, or (3) identifies an order placed under a separate agreement during the 12 months preceding the effective date of this agreement that would otherwise have been a minimum qualifying order. For public Qualified Educational Users, only Registered Affiliates identified in a registration will be responsible for complying with the terms of that registration, including the terms of this agreement incorporated by reference in that registration.

3. How to establish price level.

a. **Academic Price level.** Each Product is assigned to a Product pool and given a point value per License as shown on the Product Terms. To qualify for academic level pricing and be eligible to order Licenses from any particular pool under this agreement, Registered Affiliates, in the aggregate, must order the quantity of Licenses in that pool each year to accumulate at least the minimum required points for that pool, as shown on the Product Terms.

b. **Compliance check.** Each year, on the agreement's anniversary date, Microsoft will review Institution's purchases to count the number of points earned by all Registered Affiliates for each pool during the preceding 12-month period. If Institution does not maintain a Qualifying Contract or place sufficient Orders to maintain eligibility for this program, Registered Affiliates will not be able to place additional Orders under this agreement until Institution has placed a minimum qualifying Order.

4. License for Products.

a. **License Grant.** Microsoft grants Registered Affiliate a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered. The rights granted are subject to the terms of this agreement, the Use Rights and are granted only for the term specified in the Order. Microsoft reserves all rights not expressly granted in this agreement.

b. **Use by Affiliates.** Registered Affiliate may sublicense the right to use the Products ordered under this agreement to any Affiliates, but Affiliates may not sublicense these rights and their use must be consistent with the terms of this agreement.

c. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable agreement is terminated or expires, unless Registered Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable agreement or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and any applicable Software Assurance term has expired.

d. **Applicable Use Rights.** This section is intentionally omitted and is included in Section 4.31 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

e. **Earlier versions (downgrade rights).** This section is intentionally omitted and is included in Section 4.32 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

f. New Version Rights under Software Assurance. With Software Assurance coverage, Registered Affiliates may use a new version of a licensed Product as soon as it is released. New version rights apply to the License automatically upon release of the new version, even if Registered Affiliate chooses not to use the new version immediately.

(i) Except as otherwise permitted under a Qualifying Contract, use of the new version will be subject to the new version's Product Use Rights.

(ii) If the License to the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual licenses obtained through Software Assurance replace any perpetual licenses to the earlier version.

g. Multi-Language rights. Registered Affiliate may use different language versions of any Product it Licenses under this agreement, provided that the License, L&SA, or Software Assurance for that different language version is available at the same or lower price than the price paid for the language version ordered of the same Product and License type.

h. Developer Products. For each copy of Microsoft Developer Products a Registered Affiliate licenses for instructional purposes in connection with a class or other educational program, the Registered Affiliate may, as an alternative to deploying the product pursuant to the licensing model described in the Product Use Rights, either

(i) permit an unlimited number of its student users to run the Product on a single computer or similar device, provided that all such users comply with all other terms of this agreement; or

(ii) if the Registered Affiliate has licensed multiple copies of the product, then, at any time, its students or faculty may run as many copies of the Product as it has licensed, provided that those users comply with all other terms of this agreement. If the anticipated number of users of the Product will exceed the number of copies the Registered Affiliate has licensed, it must have a reasonable mechanism or process in place to ensure that the number of persons running the product at any given point in time does not exceed the number of copies licensed.

i. License confirmation. This agreement, the applicable Order, any Order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Registered Affiliate's evidence of all Licenses obtained under this agreement.

j. After-acquired Licenses. At any time after Microsoft has accepted its registration, Registered Affiliate may use any Product as if licensed under the terms of this agreement, provided it submits an Order for a sufficient number of Licenses to authorize Registered Affiliate's use of the Product in the same calendar month in which the Product is first used.

k. Benefits limited to qualified educational user. Products licensed under this agreement may be used only by and for the benefit of a qualified educational user. Client Access Licenses that the Registered Affiliates acquire solely to enable their students to access their servers are, for the purposes of this restriction, deemed to be used by and for the benefit of a qualified educational user. For each such student Client Access License the Registered Affiliate acquires, it does not need to acquire a separate Client Access License for the parent(s) or legal guardian(s) of the licensed student user. Licenses obtained under this agreement may not be transferred, sublicensed, rented, leased, or loaned to any person or entity that is not a qualified educational user.

5. *Redistribution of Software Updates to Students.*

a. License grant. Microsoft grants Institution a limited, non-exclusive, royalty-free, non-assignable, non-transferable, revocable License to distribute Software Updates to Institution's students in accordance with the terms of this section. Institution's students must use the Software Updates solely for their personal benefit in accordance with the end-user license agreement with Microsoft ("EULA") included with each Software Update.

b. **Redistribution of Software Updates.** Institution may redistribute Software Updates to Institution's students (1) by electronic means provided that Institution's method of electronic distribution is adequately licensed and incorporates access control and security measures designed to prevent modification of the Software Updates and prevent access by the general public, or (2) by acquiring authorized copies on fixed media from a fulfillment source approved by Microsoft.

c. **Limitations.** Institution may not: (1) produce or replicate Software Updates onto CDs or other distributable storage media; (2) combine the Software Updates with other non-Microsoft software; (3) distribute any Software Updates as a stand-alone component via email attachment; (4) charge for the Software Updates, other than to recover any reasonable costs incurred in providing the updates to Institution's students; (5) remove, modify, or interfere with the EULA or the EULA acceptance functionality included by Microsoft with any Software Update; or (6) alter the Software Updates in any way. Microsoft is not responsible for any cost related to the acquisition, distribution, or recall of the Software Updates.

d. **Tracking and recall.** Institution must track the quantity and method of distribution of the Software Updates by means that will allow Institution to provide notice of a recall and offer replacements as provided in this subsection. Institution agrees to stop redistributing Software Updates within 10 days of receipt of a notice of recall from Microsoft, and within 30 days of that notice, Registered Affiliate agrees to (1) return to Microsoft or destroy all copies of Software Updates in Registered Affiliate's possession, and (2) notify Registered Affiliate's students of the recall by same or similar means in which they were notified of the availability of the Software Updates.

e. **Replacement Software Updates.** If Microsoft makes available to Registered Affiliate a replacement Software Update, Registered Affiliate agrees to make the replacement available to its students within 10 days of receipt and in the same quantity and method of distribution as Registered Affiliate made the original Software Update available. Institution's distribution of replacement Software Updates is subject to the same conditions and restrictions as other Software Updates under this section.

f. **No Warranties.** Notwithstanding anything to the contrary in this agreement, and to the extent permitted by law, Software Updates that Registered Affiliate redistributes to Institution's students are provided "as-is" without any warranties. Institution and its Registered Affiliates acknowledge that the provisions of this paragraph with regard to the Software Updates are reasonable considering, among other things, that the Software Updates are complex computer products. Institution further acknowledges that the performance of the Software Updates will vary depending upon hardware, platform and software interactions and configurations.

g. **Exclusion of Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR INDIRECT DAMAGES THAT ARISE OUT OF OR ARE IN ANY WAY RELATED TO INSTITUTION'S REDISTRIBUTION OF THE SOFTWARE UPDATES TO INSTITUTION'S STUDENTS. FURTHERMORE, IN NO EVENT SHALL MICROSOFT BE LIABLE FOR ANY SUCH DAMAGES BASED DIRECTLY OR INDIRECTLY UPON THE PROVISION OF SOFTWARE UPDATES OR UNAVAILABILITY OF SOFTWARE UPDATES -- INCLUDING WITHOUT LIMITATION, DAMAGES DUE TO BUSINESS INTERRUPTION, LOSS OF PROFITS, REVENUE OR BUSINESS OPPORTUNITY, LOSS OF DATA AND THE LIKE, FAILURE TO MEET ANY DUTY, OR NEGLIGENCE.**

h. **Limitation of liability.** With respect to Registered Affiliate's redistribution of the Software Updates, the Limitation of Liability provisions in this agreement shall apply in those situations in which Institution or a Registered Affiliate assert a right to damages or other compensation from Microsoft.

i. **No support.** Institution understands that Microsoft has no obligation to provide any support for Software Updates that Registered Affiliate may redistribute to its students, including any benefits accruing from Software Assurance.

6. *How to order Product Licenses.*

a. Placing Orders. Registered Affiliate may purchase Licenses Microsoft makes available under this program by placing Orders with Registered Affiliate's authorized Reseller. The price and payment terms for all Orders will be determined by agreement between Registered Affiliate and Registered Affiliate's Reseller. When placing Orders, a Registered Affiliate must specify the country in which the Registered Affiliate will use the Licenses.

b. How to confirm Orders. Information about Orders, including an electronic confirmation of each Order, will be provided in a password-protected website at https://licensing.microsoft.com or a successor site. Upon Microsoft's acceptance of this agreement, the contact Registered Affiliate designates on the Affiliate Registration Form will be provided access to this site.

c. Invoices and payments. For any Orders for Software Assurance or L&SA, Registered Affiliate may elect with its Reseller to spread its payments over three years rather than payment in a lump sum. In such cases, Microsoft will invoice the Reseller in installments, the first installment upon receipt of the Order, and subsequent installments on each anniversary of the Order or at Registered Affiliate's option, on the Affiliate anniversary month. Orders for Licenses without accompanying Software Assurance will be invoiced to the Reseller in full upon receipt of the Order.

d. When is Registered Affiliate eligible to order only Software Assurance? A Registered Affiliate may add Software Assurance to a previously licensed Product without ordering a new License for the product if:

(i) Registered Affiliate previously obtained a perpetual License for a Product through Upgrade Advantage, Software Assurance, or any similar upgrade protection and, prior to the expiration of its existing upgrade protection, orders Software Assurance for the Product to become effective no later than one day following the scheduled expiration of the previous upgrade protection;

(ii) Registered Affiliate is eligible to order Software Assurance for Products licensed through retail sources or from an original equipment manufacturer ("OEM") and places its order within the required time frame. The Product Terms at http://www.microsoft.com/licensing/contracts identifies those Products that may be enrolled in Software Assurance and the applicable time frame for placing an order;

(iii) the Product Terms expressly permits Registered Affiliate to order Software Assurance without ordering a new License for the Product; or

(iv) Registered Affiliate renews Software Assurance as described in the section of this agreement titled, "How to renew an Order."

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

a. General. Registered Affiliate may make as many copies of the Products licensed as necessary to distribute the Products within its organization. All copies of any Product must be true and complete copies (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. The Registered Affiliate may also have a third party make or distribute copies, but the Registered Affiliate is responsible for such third party's actions. The Registered Affiliate agrees to make reasonable efforts to notify its employees, agents, and other individuals running a Product that the Product is licensed from Microsoft and subject to the terms of this agreement.

b. Copies for training, evaluation, and back-up. The Registered Affiliate may (1) use up to 20 complimentary copies of any Product in a dedicated training facility on its premises, (2) use up to 10 complimentary copies of any Product for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations.

c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product(s) is licensed (1) from an original equipment manufacturer (OEM), (2) as full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this agreement may be generally used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:

   (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.

   (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.

   (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (*e.g.*, upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.

   (iv) Any Product-specific requirements for re-imaging identified in the Product Terms.

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

8. *Work at home rights. Intentionally Omitted*

9. *Distributing media. Intentionally Omitted*

10. *Transferring and reassigning Licenses.*

   a. **Transferring Licenses to third parties.** License transfers are not permitted, except that Registered Affiliate may transfer full-paid perpetual Licenses to:

   (i) an Affiliate; or

   (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (1) divestiture of an Affiliate or a division of an Affiliate or (2) a merger involving Registered Affiliate or an Affiliate

   b. **Notification of License Transfer.** Registered Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from http://www.microsoft.com/licensing/contracts, and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless the Registered Affiliate provides to the transferee, and the transferee accepts in writing, the applicable Use Rights, use restrictions, limitations of liability (including exclusions and warranty provisions), and the transfer restrictions described in this section. Any License transfer not made in compliance with this section will be void and Registered Affiliate must either return or destroy the licensed copies.

   c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the organization. Licenses and Software Assurance may be reassigned within the organization as described in the Product Terms.

11. *Term and termination.*

   a. **Term.** This section is intentionally omitted and is included in Section 4.1 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

b. **Termination without cause.** This section is intentionally omitted and is included in Section 4.6(W) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

c. **Termination for breach.** Without limiting any other remedies it may have, Microsoft or Registered Affiliate may terminate the Affiliate Registration Form if the other party materially breaches its obligations under this Agreement, including any obligation to pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice and opportunity to cure the breach. If Microsoft gives such notice to a Registered Affiliate, Microsoft will give OGS a copy of that notice as well and OGS agrees to help resolve the breach. If the breach also affects other Affiliate registrations, Microsoft shall give such notice to each Registered Affiliate and so advise OGS. If the breach cannot be resolved between Microsoft and Registered Affiliate within a reasonable period of time, Microsoft may terminate all the affected Affiliate registrations that received actual notification. If Registered Affiliate ceases to be an 'Affiliate', Registered Affiliate must promptly notify Microsoft, and Microsoft may terminate Registered Affiliate's registration under this Agreement.

d. **Effect of termination.** When this agreement is terminated, Registered Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an Order. Any and all unpaid payments or any order of any kind, including subscription services, remain due and payable.

e. **Modification or termination of an Online Service for regulatory reasons.** This section is intentionally omitted and is included in Section 4.6(W) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

f. **Program updates.** This section is intentionally omitted and is included in Section1.6 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

12. *How to renew Software Assurance.*

a. **Notice of Expiration.** Microsoft will provide notice prior to the expiration of any Software Assurance Registered Affiliate orders under this agreement and advise Registered Affiliate of its Software Assurance renewal options.

b. **Renewal Order.** To maintain Software Assurance coverage for any Licenses previously ordered under this agreement, Registered Affiliate must submit an Order for an additional term of Software Assurance for those Products prior to or at the expiration of the previous term.

c. **Consequences of non-renewal.** If Registered Affiliate allows Software Assurance for any Licenses to lapse, then Registered Affiliate may not renew Software Assurance for those Products again without first acquiring L&SA.

13. *Restrictions on Use.*

This section is intentionally omitted and is included in Section 4.6(HH) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

14. *Confidentiality.*

This section is intentionally omitted and is included in Section 4.6(G) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

15. *Warranties.*

This section is intentionally omitted and is included in Section 4.6(BB) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

16. *Defense of infringement, misappropriation, and third party claims.*

This section is intentionally omitted and is included in Section 4.6(EE) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

17. *Limitation of liability.*

This section is intentionally omitted and is included in Section 4.6(FF) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

18. *Verifying compliance.*

This section is intentionally omitted and is included in Section 4.6(JJ) of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

19. *Miscellaneous.*

a. **Notices to Microsoft.** This section is intentionally omitted and is included in Section 4.35 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

b. **Clerical errors.** Microsoft may correct clerical errors in this agreement, and any documents submitted with or under this agreement, by providing notice by email and a reasonable opportunity for Registered Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.

c. **Assignment.** This section is intentionally omitted and is included in Appendix A Section 2 and Appendix B Section 40 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

d. **No transfer of ownership.** This section is intentionally omitted and is included in Section 4.23 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

e. **Severability.** This section is intentionally omitted and is included in section 4.37 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

f. **Waiver.** This section is intentionally omitted and is included in Section 4.30 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

g. **Resellers and other third parties cannot bind Microsoft.** This section is intentionally omitted and is included in Section 4.21 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

h. **This agreement is not exclusive.** This section is intentionally omitted and is included in Section 4.29 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

i. **Entire agreement.** This section is intentionally omitted and is included in Section 4.38 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

j. **Order of Precedence.** This section is intentionally omitted and is included in Section 4.3 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

k. **Amending the agreement.** This section is intentionally omitted and is included in Section 1.6 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

l. **Compliance with Applicable Laws, Privacy and Security.** This section is intentionally omitted and is included in Section 4.6(AA) to the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

m. **Applicable currency.** Intentionally omitted.

n. **Survival.** This section is intentionally omitted and is included in Section 4.28 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

o. **Advisor fee.** Microsoft, or its Affiliates, sometimes pays fees to software advisors, or other third parties authorized by Microsoft or one of its Affiliates. The fees are in exchange for their advisory services. The payment of fees depends upon several factors, including the type of agreement under which Registered Affiliate orders Licenses, which Licenses Registered Affiliate orders, and whether Registered Affiliate chooses to use an advisor. The fee amounts increase with the size of the orders placed under this agreement.

p. **Applicable law.** This section is intentionally omitted and is included in Section14 of Appendix A to the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

q. **U.S. export.** This section is intentionally omitted and is included in Section 4.27 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

r. **Subcontractors**. This section is intentionally omitted and is included in Section 4.20 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

s. **Natural disaster.** This section is intentionally omitted and is included in Section 4.25 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

t. **Section headings.** This section is intentionally omitted and is included in Section 4.36 of the associated Custom Microsoft Business Agreement (OGS Contract No. PS67984).

u. **FERPA**. Upon receipt of a judicial order or lawfully issued subpoena requiring the disclosure of personally identifiable information from education records related to Institution in Microsoft's possession, Microsoft or an Affiliate of Microsoft will attempt to redirect the request to Institution. If compelled to disclose personally identifiable information from education records related to Institution to a third party, Microsoft will use commercially reasonable efforts to notify Institution in advance of a disclosure unless legally prohibited. Institution understands that Microsoft may have no or limited contact information for Institution's students and students' parents in its possession. Consequently, Institution will convey notification on behalf of Microsoft to students (or, with respect to a student under 18 years of age and not in attendance at a postsecondary institution, to the student's parent) of such an order or subpoena as may be required under applicable law.