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## Appendix I - How to Use the Microsoft Reseller Contract and Frequently Asked Questions

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Authorized Users must follow these How to Use procedures, and must adhere to the terms and conditions of the Contract when procuring Products under Award 23116.

This document provides Authorized Users with instructions on how to use the Microsoft Reseller Contract (“Contract”). These instructions assume Authorized Users have a working knowledge of procurement methodology. Authorized Users must adhere to the terms and conditions of the Contract when procuring Products from the Contract.

Additional general procurement information is available at the New York State Procurement website. (<https://nyspro.ogs.ny.gov/content/buying-101>)

The Contractor's contact information may be found at the following link:  
[https://www.ogs.ny.gov/purchase/snt/awardnotes/7600023116CI\\_MSReseller.pdf](https://www.ogs.ny.gov/purchase/snt/awardnotes/7600023116CI_MSReseller.pdf).

Authorized Users may contact the OGS Contract Manager listed on the Contract page: <https://ogs.ny.gov/purchase/snt/awardnotes/7600023116can.htm> with any questions, concerns, or clarifications.

### Section 1. GENERAL INFORMATION

#### 1.1 CONTRACT SCOPE.

This Contract is a statewide centralized contract to acquire Microsoft Products that are determined by OGS to be within Contract scope.

#### 1.2 PRODUCTS IN SCOPE.

Products available under this Contract are Microsoft Software and certain Online Services.

##### 1.2.1 Software.

All Products classified by Microsoft as Software are authorized for acquisition under this Contract, except as specifically excluded by OGS. Training services offered free of charge in relation to Software Products are in scope.

##### 1.2.2 Online Services.

Online Services authorized for purchase under this Contract are Office 365, Azure, Intune, Dynamics CRM, and GitHub Enterprise. Only Online Services that are listed on the NYS Price List may be sold or purchased under this Contract. Online Services authorized for acquisition under this Contract for use with Criminal Justice Information Services (“CJIS”) data are Office 365, Azure, and CRM. All other Online Services are not authorized for purchase under this Contract.

#### 1.3 PRODUCTS OUT OF SCOPE.

The following cannot be purchased under this Contract:

- Any items considered out of scope for the Custom Microsoft Business Agreement (CMBA), as indicated in the Out-of-Scope Work and Products section included in CMBA Section 1.7.
- Paid training services.

#### 1.4 HOW TO PROCURE PRODUCTS

Authorized Users requiring assistance developing a package of Microsoft Products may work with Microsoft to develop the package that best fits their need. Once the package is complete, the Product SKUs can be brought forward to Dell for a Product quote.

### 1.4.1 Methods to Procure.

Note that there are several methods of procuring Microsoft Products:

#### Software and Online Services

1. A Purchase Order (PO) can be made for the full price of Software Products upfront. If desired, Software Assurance can be purchased at this time.
2. Software Assurance (an annuity offering that provides new version rights and other benefits for Products) purchases can be made as part of a three year Enterprise Enrollment. In this format the cost of the license is broken roughly into thirds. This cost is paid with the cost of Software Assurance for that year.
  - Year 1 - 1/3 license cost + Software Assurance
  - Year 2 - 1/3 license cost + Software Assurance
  - Year 3 - 1/3 license cost + Software Assurance

#### Microsoft Azure Services

**OGS suggests that Authorized Users encumber funds to cover the estimated costs for the quarterly or annual identified need for Microsoft Azure Services. Please be aware there are a number of very specific payment terms and conditions that apply to Azure and other Online Services that should be discussed thoroughly with Microsoft and fully understood by the Authorized User before an agreement is entered into.**

#### **These include but are not limited to:**

**a. Commitments of usage of Online Services are set at the time of ordering. These dollar commitments can be increased at any time but cannot be decreased during the annual Enrollment period.**

**b. Reducing commitments of usage can only be made by notification to Microsoft and Dell more than 90 calendar days prior to the end of the existing annual period and will impact only the following annual period.**

**c. Actual services used are not included on the PO unless specifically designated by the Authorized User. Unused or underutilization of services does not reduce the monthly/quarterly payment due but may be used to support expenditure of other online services. This may be completed without modification of the PO unless product specific language is included.**

#### Consumption Based Billing

Azure Services in the Government Community Cloud may be made by issuing a zero dollar PO to Dell and are paid for in arrears on a monthly basis. To purchase services in this manner, an Authorized User would add a commitment provision to their Enterprise Enrollment and would pay the consumption rate for the services used.

An Authorized User may view the price per unit at the following link: <https://azure.microsoft.com/en-us/pricing/calculator/>. When adding Products to the calculator, make sure to choose the "Region" as "US Gov" [Iowa, Arizona, Texas, or Virginia] for the Azure Government Community Cloud pricing.

If an Authorized User provisions Microsoft Azure Services in this manner, the Authorized User will be invoiced monthly at the current rate set by Microsoft for Microsoft Azure Services. Any usage of Microsoft Azure Services after the expiration or termination of the Authorized User's subscription will be invoiced at the then-current rate set by Microsoft for Microsoft Azure Services.

## Pre-Payment of Azure Services

Authorized User may also purchase Azure Services using a pre-paid option either for Commercial Cloud or Government Community Cloud regions. A Monetary Commitment is defined by Microsoft as the total monetary amount a customer commits to pay during the term of the subscription for its use of eligible Microsoft Azure Services.

There is a minimum commitment level for the pre-paid option. Authorized Users must commit to a purchase of 1 Monetary Commitment unit per month. For an Authorized User with a Server and Cloud Enrollment, if Azure Monetary Commitment is the only Server and Tools Product selected, the minimum order for Monetary Commitment is a \$12,000 commitment per year or 3 years at \$36,000.

An Authorized User has a choice of invoicing options for prepaid Monetary Commitments. One, an Authorized User may choose to be invoiced for the full amount of the Monetary Commitment upfront and will have access to the entire Monetary Commitment through the Enrollment term (the "Fully Prepaid Option"). The Authorized User will be invoiced immediately for the entire amount of the Monetary Commitment. Second, an Authorized User may elect to be invoiced on an annual basis and would then have access to only the portion of the Monetary Commitment allocated annually through the Enrollment term (the "Annually Prepaid Option"). This portion of the Monetary Commitment annually allocated to the Authorized User is referred to by Microsoft as the Allocated Annual Commitment. The Authorized User will be invoiced for the first Allocated Annual Commitment at the time of order and any future Allocated Annual Commitments will be invoiced on the anniversary of the Enrollment effective date.

An Authorized User of Azure Services must be aware of the following:

- Under the Fully Prepaid Option, any unused Monetary Commitment will be forfeit at the end of the Enrollment Term
- Under the Annually Prepaid Option, any unused Allocated Annual Commitment will be forfeited on the following Enrollment anniversary date.

Under a Monetary Commitment, Microsoft will deduct the monetary value of the Authorized User's usage of eligible Azure Services. If the balance of the Monetary Commitment or Allocated Annual Commitment has been exhausted, any additional usage will be invoiced at the current rate set by Microsoft for Microsoft Azure Services. Invoicing of Monetary Commitment overage will be invoiced at the end of each Enrollment month.

## **Section 2. Authorized User Responsibilities**

### **2.1 Determination of Compliance with Statutory and Regulatory Requirements.**

It is the responsibility of each Authorized User to evaluate the Contract offerings and determine if an offering complies with the Authorized User's statutory and regulatory requirements prior to acquisition. For a list of selected statutory and regulatory requirements, Authorized Users may refer to Appendix K, Primary Security and Policy Mandates. OGS advises all Authorized Users to consult with Counsel or your organization's Data Security Officer to ensure compliance with all statutory and regulatory requirements.

### **2.2 Note to Authorized Users.**

When placing purchase orders under the Contract, the Authorized User must be familiar with and shall follow the terms and conditions governing its use. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes. The Authorized User, when purchasing from OGS Contracts, should hold the Contractor accountable for Contract compliance and meeting the Contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible. Authorized Users have the responsibility to document purchases, which documentation should include:

- a statement of need and associated requirements,
- all necessary prior approvals,
- a summary of the Contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase.

## **2.3 Data Categorization Study.**

For Authorized User purchases of Online Services other than Office 365, it is recommended that the Authorized User complete a Data Categorization study, consistent with NYS-S14-002 Information Classification Standard (or successor standard) available at <http://www.its.ny.gov/tables/technologypolicyindex.htm>.

The Authorized User should make a business decision, based on its Data Categorization study results, and/or any applicable Microsoft Product terms or Product documentation, as to the appropriateness of the Online Services solution being considered.

## **2.4 Online Services - Criminal Justice Information (CJI).**

The only Online Services authorized for acquisition under this Contract for use with Criminal Justice Information Services (“CJIS”) data are Office 365, Azure, and CRM.

## **2.5 Online Services – Federal Tax Information (FTI).**

Because the CMBA does not contain specific contractual provisions related to the requirements set forth in IRS Publication 1075, Online Services may not be used for the storage and processing of FTI.

## **2.6 Environmental Attributes and NYS Executive Order Number 4.**

New York State is committed to environmental sustainability and endeavors to procure Products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on State Agencies, authorities, and public benefit corporations when procuring Products. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <https://www.ogs.ny.gov/greenny/>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

## **2.7 Contractor Deficiency Report.**

If the Contractor fails to meet the requirements of the Contract, Authorized Users are encouraged to submit a Contractor Deficiency Report (CDR) to OGS, using the CDR, where all deficiencies or non-compliance reports will be recorded centrally. A blank CDR form is available on the OGS Contract website, which can be found at <https://www.ogs.ny.gov/purchase/snt/awardnotes/7600023116can.HTM>

# **Section 3. Contractor's Responsibilities to Authorized Users.**

## **3.1 Responsibility to Inform.**

The Contractor, Dell, has the following responsibilities relating to the provision of information to Authorized Users:

a. It is essential that Authorized Users fully understand the nature of Products being offered or provided under the Contract prior to issuing a Purchase Order. Accordingly, Dell 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.

b. Dell shall provide Microsoft-specific available information, as appropriate, to the Authorized User in order 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 Contract. 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.

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

d. Dell must provide to the Authorized User a copy of the CMBA at the time of an executed Enrollment/Affiliate Registration Form.

**3.2 Refunds.**

In the event of termination of service for any reason, Dell will reimburse an Authorized User for any prepaid amount that has been applied to the portion of the service that has been terminated. The refund may be in the form of credit or cash, which will be decided by the Authorized User

**3.3 Service Credits for Online Services.**

As described in Section 4.11, Service Credits for Online Services, of the CMBA, Dell must, on behalf of an Authorized User, facilitate and submit any claims for service credit for Online Services to Microsoft.

The Authorized User must provide to Dell 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 Dell.

**3.4 Product Quotes.**

Contractor 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 NYS Price List. Contractor must honor all quotes for thirty (30) calendar days, regardless of any price increases.

**Section 4. Custom Microsoft Business Agreement.**

OGS and Microsoft established a Custom Microsoft Business Agreement (CMBA), which sets forth the overall licensing framework and the applicable terms and conditions for the acquisition of Microsoft Product under this Contract. All CMBA documents are available on the OGS Contract website, which can be found at <https://www.ogs.ny.gov/purchase/snt/awardnotes/7600023116can.HTM>.

**4.1 Program Agreements, Enrollment Forms and Affiliate Registration Form.**

As part of the CMBA, Custom Program Agreements, Enrollments, Affiliate Registration Forms, Consortia Agreements, Participation Agreements and Participation Forms have been established for use by the Authorized Users of this Contract. Contractor must utilize these custom forms and documents for transactions under this Contract.

<b>Custom Microsoft Business Agreement (CMBA)</b>			
<b>Program Agreements</b>			
<b>Enterprise Agreement State and Local (EA)</b>		<b>Campus and School Agreement (CASA)</b>	<b>Select Plus License Program Agreement State and Local</b>
			<b>Academic Select Plus Agreement</b>
<b>Enrollments - Affiliate Registration Form</b>			
<b>Custom Enterprise Enrollment State and Local</b>		<b>Custom Enrollment for Education Solutions</b>	<b>Custom Select Plus Affiliate Registration Form</b>
<b>Custom Enterprise Subscription Enrollment State and Local</b>			
<b>Custom Server and Cloud Enrollment State and Local</b>			

**4.2 Product Use Rights.**

To determine the use rights for a particular Product obtained under this award, an Authorized User must review the following documents, as applicable:

1. The CMBA, which contains the license terms common to all Products;

2. The Product Terms document, which contains use rights and terms of service for Products other than Online Services; and
3. The Online Services Terms, which contains use rights and terms of service for Online Service.

Authorized Users must be aware that the Product Terms and Online Services Terms are updated from time to time (currently a new version of both documents are released every month.) Authorized Users can access the current and archived editions of the Product Terms and Online Services Terms documents at the following website: <https://www.microsoft.com/en-us/licensing/product-licensing/products.aspx>.

**For Products other than Online Services**, the Use Rights as defined above, in effect on the effective date of an Enrollment term will apply to the Authorized User's use of the version of each Product that is current at the time. For future versions of a Product and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes made to the Use Rights for a particular version will not apply unless the Authorized User chooses to have those changes apply. The Use Rights applicable to perpetual licenses that were acquired under a previous agreement or Enrollment are determined by the agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those licenses.

**For Online Services**, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.

Authorized Users are encouraged to download the Product Terms and Online Services Terms documents that apply to the Products purchased under this Contract, for their reference.

#### **4.3 Service Level Agreements for Microsoft Online Services.**

Microsoft publishes a document, the Service Level Agreements, which provide commitments for uptime and connectivity for Microsoft Online Services listed on the NYS Price List. The Service Level Agreement applicable to an Authorized User's use of an Online Service is the one posted to the licensing site at the time an Authorized User initiates or renews its subscription license. This document is updated from time to time. The current and archived editions of the document can be accessed at: <https://www.microsoft.com/en-us/licensing/product-licensing/products.aspx>.

Additional information related to the CMBA is included under the Frequently Asked Questions portion of this document.

## **Section 5. Contract Pricing.**

### **5.1 NYS Contract Price.**

The pricing under this Contract is established on a Cost-Minus basis. The Contractor applies a Cost-Minus Percentage to the Net Reseller Cost set by Microsoft to determine the maximum Net NYS Price to the State of New York for each Contract SKU.

### **5.2 NYS Price List.**

Dell updates the NYS Price List on a monthly basis, based on Microsoft pricing for Contract SKUs. OGS publishes the NYS Price List on the Contract website. The most recent NYS Price List is available at the following link: [https://www.ogs.ny.gov/purchase/prices/7600023116PL\\_MSReseller.xlsx](https://www.ogs.ny.gov/purchase/prices/7600023116PL_MSReseller.xlsx).

### **5.3 Enrollment Pricing.**

Except for Online Services designated in the Product Terms as being exempt from fixed pricing, pricing quoted to Authorized Users for each Product ordered under an Enrollment (Enterprise Enrollment, Enterprise Subscription Enrollment, Enterprise Server and Cloud Enrollment or Enrollment for Education Solutions) shall be fixed throughout the applicable initial or renewal Enrollment term (i.e., pricing quoted to Authorized Users cannot be increased on a year by year basis during the life of the initial or renewal term of the Enrollment).

Pricing for each Product ordered under an Enrollment may be reestablished at the beginning of the renewal Enrollment term. An Enrollment for Education Solutions may have either a one or three year term. If a one-year term is opted for, Microsoft will not increase the price it charges to the Reseller for an annual extension by more than 10% over the preceding one year licensed period if the extension order is submitted prior to the expiration of the Enrollment and for the same

Products and quantities ordered in the preceding term. Notwithstanding the foregoing, a change in Reseller during the term of an Enrollment may result in a change in pricing based on the new Reseller's Contract pricelist.

## **Section 6. Frequently Asked Questions and Answers.**

**1. Q. What Microsoft products are available through this agreement?**

A. Microsoft Software, Software Assurance, and certain Online Services Products listed on the NYS Price List.

**2. Q. How do I find the latest information on Microsoft products, programs and services?**

A. You'll find a complete listing of the latest information on what Microsoft has to offer you under Related Resources at the Microsoft web page at: <https://www.microsoft.com/en-us/licensing/default.aspx>

**3. Q. Is support or consulting sold under this agreement?**

A. No, only Software Assurance is available for purchase under this Contract. Additional paid support can be purchased through the Microsoft Premier Support Contract PS67930.

**4. Q. What is the Custom Microsoft Business Agreement ("CMBA")?**

A. The CMBA is an agreement through which all New York State agencies, local governments, political subdivisions, education institutions, and other "Authorized Users" (entities that are eligible to purchase from New York State agreements) may purchase Microsoft software at the best possible price and terms. The CMBA combines terms from each of the various Microsoft licensing programs through which the State makes purchases.

**5. Q. How is the CMBA structured?**

A. The CMBA consists of 4 Parts –

Part 1 – Scope of the Agreement

- Acquiring Products and Payment/Pricing
- Placing orders
- Definitions

Part 2 – Contract Administrative Support

Part 3 – Responsibilities

- Internet Access to Contract & Pricing Information
- Authorized User Determination of Compliance with Statutory and Regulatory Requirements

Part 4 – Terms and Conditions

Sections containing –

- Business terms and conditions (e.g. warranties, audit rights, defense of infringement, misappropriation, and third party claims, etc.) that apply to all Microsoft licensing programs.
- Program Agreements, Enrollment Forms and Affiliate Registration Forms.

**6. Q. What are the differences between the various program agreements, and how does an Authorized User decide which one(s) to enroll and purchase under?**

**A.** The program agreements differ as follows:

1. The Enterprise Agreement State and Local is used only by non-educational Authorized Users that wish to standardize on one or more Microsoft Products ("enterprise products") across all their desktops and to receive specially discounted prices on such purchases. In addition to enterprise products, other products ("additional products") are available to purchase at prices equivalent to those of the Select Plus Agreement. Purchases are made in three installments during the 3-year enrollment term. Authorized Users should enroll using one of the "Enterprise Enrollments" available from the State's reseller.
2. The Select Plus License Program Agreement (State and Local Government) - used for "a la carte" purchases of licenses and/or Software Assurance by Authorized Users, with no minimum purchase commitment.
  - Select Plus - State and Local - available for Authorized Users that do not qualify as Qualified Educational Users as defined in Appendix E of the CMBA. Authorized Users should enroll using the "Custom Select Plus Affiliate Registration Form" available from the State's reseller.
3. The Campus and School Agreement is used by K-12 and Higher Education Institutions. Unlike the Select Plus and Enterprise Agreements, the Campus and School Agreement provides non-perpetual (subscription) license rights to the most commonly purchased Microsoft Products. Upon expiration, the entity must either renew, buy-out, or cease using and remove the software from their computers. The Requirement is that 100% of the defined Institution Knowledge Workers count be licensed.
4. The Academic Select Plus License Program Agreement (as defined in Appendix E to the associated CMBA (OGS Contract No. PS67984)- used for "a la carte" purchases of licenses and/or Software Assurance by Authorized Users, with no minimum purchase commitment.
  - Academic Select Plus - Available only for Authorized Users that qualify as "Qualified Educational User" (see Appendix E of the CMBA for a list of these qualifications). Qualified Education Users receive highly-discounted prices, as well as special terms and conditions pertaining to faculty home use and should enroll using the special "Custom Select Plus Affiliate Registration Form" available from the State's reseller;

**7. Q. What is the difference between a "perpetual license" and a "subscription license"?**

**A.** A perpetual license is one that survives the term of the agreement under which it was purchased. At the end of the term of a Select Plus Affiliate Registration Form or Enterprise Enrollment, all perpetual licenses purchased thereunder may continue to be used (subject to the license terms) forever, although unless the license is continuously enrolled in Software Assurance, the license may not be upgraded beyond the later of (i) the original version, or (ii) the latest version available on the last day such license was enrolled in Software Assurance.

By contrast, a subscription license is temporary. Subscription licensing is sometimes chosen over perpetual licensing because of the lower up-front costs. The subscription licenses sold via the Campus and School Agreements include the right to use the most current version of the software available during the coverage term. But after the coverage term expires, then it must either be renewed or the user must cease to run the software and remove all copies from the computers upon which they were installed.

Online Services are not version specific, and allow customers to use the service during the term of the Select Plus Affiliate Registration Form or Enrollment under which it is acquired. Subscription licenses must be acquired at the time the service is first accessed, and are prorated based on the number of months remaining in the Enrollment or Affiliate Registration Form term.



**8. Q. What section of the CMBA, along with other related documents, does an Authorized User need to read and understand?**

**A.** By enrolling under one or more of the CMBA 's program agreements, the Authorized User becomes subject to those certain terms and conditions of the CMBA which pertain to the chosen program agreement, as follows:

1. A Qualified Education User(as defined in Appendix E of the CMBA) wishing to purchase under the Select Plus Agreement:

Must sign: Custom Select Plus Affiliate RegistrationForm (available from State's reseller).

2. A non-academic user wishing to purchase under the Select Plus Agreement:

- Must sign: Custom Select Plus Affiliate Registration Form (available from State's reseller).

3. A non-academic user wishing to purchase under the Enterprise Agreement :

- Must sign one of the following: Custom Enterprise Enrollment State and Local, Custom Enterprise Subscription Enrollment State and Local or Custom Server and Cloud Enrollment State and Local (available from State's reseller).

Enrollments require that user declare the following:

- "Enterprise" (the entity to be covered - may be entire Authorized User, combination of Authorized Users, or individual department(s) within an Authorized User);
- Count of qualified desktops in enterprise (those computers capable of running the enterprise products, excluding servers and special-purpose machines);

4. A Primary, Secondary or Higher Education user wishing to purchase under the Campus and School Agreement:

- Must sign: Custom Enrollment for Education Solutions (available from State's reseller) – goes through eAgreement document tool.

Enrollment requires that user declare the following:

- Count of Knowledge Workers employees in institution;
- (Optional, if students to be enrolled) count of Students enrolled.

**9. Q. Explain the differences in term (length) and termination between the various program agreements.**

**A.** The CMBA consists of 4 program agreements (Select Plus License Program Agreement State and Local, Academic Select Plus Agreement, Enterprise Agreement State and Local and Campus and School Agreement). Because of differences in Microsoft's licensing programs, each program agreement has different durations, renewal provisions, and termination provisions, as follows:

**Enterprise Agreement.**

Initial term is 36 months (3 years). New enrollments may be signed through the last day of the term of this Contract.

All enrollments expire 36 full calendar months after the enrollment's effective date (unless special arrangements for a different term are agreed upon). This means that an enrollment signed the day before the expiration of this 5 year Contract term will expire 36 months thereafter, even though this Contract will have expired.

Each enrollment may be renewed for an additional 3-year term. Such renewal will be priced based on a special Software Assurance renewal price.

**Campus and School Agreements**

Initial term for a Custom Enrollment for Education Solutions is 12 calendar months (1 year) or 36 calendar months (3 years). New Enrollment for Education Solutions forms may be signed through the last day of the term of this Contract.

All Enrollment for Education Solutions expire 1 or 3 years after their effective date (unless special arrangements for a different term are agreed upon).

Enrollments with a 1 year term may optionally be extended for up to 5 additional 1-year terms. Enrollments with a 3 year term may optionally be extended for 1 additional 3 year term (total of 6 years with extensions). At extension, pricing is no longer locked in and gets current pricing. Microsoft will not increase the price it charges to the Reseller for an annual extension of a License by more than ten percent (10%) over the immediately preceding one year Licensed Period if Institution submits an extension order prior to the expiration of the Enrollment for the same Products in the same quantities as ordered in the expiring Licensed Period.

**10. Q. What are the differences in the Select Plus Agreement program agreement between academic vs. state and local government Affiliate Registration Forms?**

A. Qualified education users receive the following special terms:

- Special education pricing for all purchases;
- Work at Home Rights for Microsoft Office for employees licensed for such Product on their at-work computer.

**11. Q. What is "Software Assurance Membership," and who qualifies for it?**

A. Software Assurance Membership ("SAM") customers are those entities who commit to purchase Software Assurance with all License purchases in one or more Microsoft Product categories (called "pools"). This includes:

- All Authorized Users who select SAM on the Select Plus Affiliate Registration Form.

Information regarding SAM benefits may be found on the Web at the following address:

<http://www.microsoft.com/en-us/licensing/licensing-programs/software-assurance-default.aspx>

**12. Q. What are Microsoft's policies with regard to portable and home use under the CMBA?**

A. Terms vary based program agreement and Product in question. Please refer to individual Product use rights or consult your reseller or Microsoft representative.

**13. Q. What products are available as "enterprise products" in the Enterprise Agreement program agreement?**

A. "Enterprise products" are those Products for which the Authorized User commits, in one of the Custom Enterprise Enrollments available under the CMBA, to license for 100% of qualified desktops.

**14. Q. What is Microsoft's policy with regard to support for old versions of product?**

A. Microsoft's policy with regard to providing support for older versions of product can be found at:  
<http://support.microsoft.com/en-us/lifecycle>

**15. Q. What are the minimum enrollment sizes for Enterprise Agreement Enrollments, and how do Authorized Users that can't meet the minimums purchase products?**

A. The normal minimum enrollment sizes are as follows:

- Custom Enterprise Enrollment State and Local and Custom Enterprise Subscription Enrollment State and Local - enrolled Authorized User must have at least 250 qualified desktops in its enterprise. In situations where a possible customer has less than 250 users, they should consider using the Select Plus Program, or contact reseller to seek an exception.
- Custom Server and Cloud Enrollment State and Local - Authorized User's initial order must meet the minimum purchase requirements for at least one Product Family.

**16. Q. What is the purpose of the forms in the CMBA that are marked "FOR USE BY BOCES ONLY"?**

- A. Three forms have been included in the CMBA for use by Boards of Cooperative Educational Services (BOCES). Microsoft has included these forms in the CMBA, which may be used to set up a purchasing Consortium under the Campus and School Agreement.

The purpose of each form is as follows:

- Consortia Amendment - this amendment modifies the Campus and School Agreement to set up a Consortium;
- Participation Agreement - this agreement sets forth the terms that the Participants (either a K-12 school district who is a member of a Regional Information Center (RIC) or BOCES or a participating school district in the state) must adhere to; and
- Consortia Participation Form - this form includes Participant information and is used to set up the Enrollments under the Campus and School Agreement as modified by the Consortia Agreement.

**17. Q. For Campus and School Program Agreements, what determines the Microsoft reference price level?**

- A. Please refer to Custom Microsoft Business Agreement (CMBA) , "Custom Enrollment for Education Solutions" for price levels and prices.

**18. Q. Do enrolled entities receive notice of pending expirations and renewal periods, and if so from whom and when?**

- A. Yes, Microsoft will provide written (electronic) notice of expiration. The State Reseller may also provide similar notification.

**19. Q. May Software Assurance be ordered without the simultaneous purchase of a new license?**

- A. Software Assurance must be acquired at the time of acquiring the License or upon renewal of an existing Software Assurance term. Otherwise, they must acquire a new License or License & Software Assurance in order to upgrade their License at a later date (for Windows Desktop Operating System, the options are Upgrade & Software Assurance). Refer to the renewal rules Section and specific program agreement for eligibility rules for acquiring Software Assurance.

Customers may have the option to acquire Software Assurance for certain licenses purchased from the Retail channel (full packaged product) or from an Original Equipment Manufacturer (OEM). Eligibility varies by program, Product pool and the license source. In all cases, unless otherwise stated, only licenses for the latest version of a Product are eligible, and the Software Assurance must be acquired within 90 days from the date the licenses are acquired. (for details check the Software Assurance overview available on the web site: <http://www.microsoft.com/en-us/licensing/licensing-programs/software-assurance-default.aspx>)

**20. Q. What are the benefits of ordering Software Assurance with a license?**

- A. Software Assurance provides the licensee the ability to upgrade an enrolled license for a Product to the most current version of the Product that is released during the term of coverage. Depending on the Product and program agreement, this will save the Authorized User money relative to purchasing new licenses every 3 to 5 years in order to upgrade.

In addition, a license ordered with Software Assurance may be amortized over the number of years remaining in the term of the program agreement (as of the purchase date). For example, the purchase of License & Software Assurance in the 1st year of the 3-year term of the Select Plus Agreement program agreement may be spread out over 3 payments.

Please also see the section above on "Software Assurance Membership" for other benefits of choosing to enroll all licenses under Software Assurance.

## **21. Q. How is proof of license confirmed?**

**A.** Answer depends on the program agreement, as follows:

- Select Plus and Enterprise Agreements: licenses are confirmed online at the Microsoft Volume License Service Center (VLSC) website, a link and password to which will be provided to the State and to each enrolled Authorized User upon enrollment. The VLSC license listing will indicate whether each license is permanent (fully-paid) or temporary (pending completion of installment payments). In addition to the VLSC listing, the enrolled Authorized User is required to keep (i) a copy of its original purchase order to the reseller for the licenses; and (ii) record of any transfers (as permitted by the terms of the program agreement).
- Campus and School Agreement: All licenses are temporary, based on the terms of the applicable subscription order form. After Microsoft receives and processes the Subscription Order Form, a confirmation letter will be provided to the enrolling institution. This confirmation letter will be the Authorized User's proof of temporary license.

## **22. Q. How are licenses transferred?**

**A.** Answer depends on the program agreement, as follows:

- Select Plus Agreement: licenses may only be transferred to other New York Authorized Users. Licenses must be fully-paid in order to be transferable. To transfer, obtain a transfer form from the State's reseller or your Microsoft representative. Academic Select Plus licenses may only be transferred to qualified education users. Certain restrictions apply to transfers (see Section 10 of the Academic Select Plus Agreement program agreement and Section 7 of the Select Plus License Program Agreement State and Local program agreement)
- Enterprise Agreement: after completion of an enrollment's 3-year term, licenses become perpetual and therefore are transferable pursuant to rules similar to those which apply to Select Plus licenses (see Section 5 of the Enterprise Agreement State and Local program agreement). However, during the term of an Enterprise Enrollment, licenses are not transferable except pursuant to a reorganization or privatization. In such event, please contact your Microsoft representative for assistance.
- Campus and School Agreements: licenses are temporary and may not be transferred.

## **23. Q. What is "reference price," as this term is used in the CMBA?**

**A.** Microsoft does not sell directly to government customers, but rather sells exclusively through resellers. Microsoft therefore does not set the actual prices paid by customers. So in order to allow for "comparison shopping," Microsoft establishes a "reference price" which is equivalent to a "manufacturer's estimated retail price." Such reference price is typically higher than the actual price the reseller will charge the customer. Please check with your reseller for actual pricing for all program agreements.

## **24. Q. How is reference pricing set for the CMBA?**

**A.** Answer depends on program agreement, as follows:

- Select Plus Agreement: prices are subject to change from month to month. Microsoft provides reseller with 30 days' notice of pending price changes, and reseller provides current prices to customer upon request.
- Enterprise Agreement: Microsoft establishes the State's reference pricing for enterprise products based on the applicable Select Plus reference price, less a discount that has been established for the State based the aggregate volume of the desktops of the CMBA.
- Campus and School Agreements: Pricing subject to change from time to time. Please check with reseller for current prices.

**25. Q. What is a "true up" order and when is it required?**

- A. True up orders apply only to the Enterprise Agreement program agreement. Upon first enrolling, an Authorized User must determine its total number of "qualified desktops," and begin paying for that number of devices. If the number of qualified desktops increases during any enrollment year, then the Authorized User must pay a "true up fee" for such added desktops. The reference prices for the true up fees due at each respective enrollment anniversary are established at the beginning of an enrollment, and will not change over the term of the enrollment. True up fees, paid in one lump sum, are based upon a discounted license fee plus a prorated amount Software Assurance.

True up fees also apply to "additional products" previously ordered pursuant to an enterprise enrollment. Once an initial order for such an additional product has been placed, then subsequent true up orders may be placed on an annual basis for additional copies of such Product. Your reseller will provide the applicable true up prices for additional Products.

**26. Q. What are Microsoft's audit rights in the CMBA?**

- A. If intending to audit, Microsoft will provide Enrolled Customer at least 30 days' written notice of its intent to verify compliance. Microsoft will engage a nationally recognized independent auditor, which will be subject to a confidentiality obligation.

**27. Q. How do I know what my license rights and restrictions are with respect to a certain product I am using?**

- A. Your use of a particular version of a particular Product is governed by a combination of three documents:

1. The Custom Microsoft Business Agreement which contains those license terms (e.g. right to copy, obligation to order, warranties, transfer rights, etc.) that are common to all Products;

2. Together with the program agreement, Microsoft's Product Terms document contains all the terms and conditions for how you purchase licenses for software and Online Services through Microsoft Volume Licensing programs. It is located: <https://www.microsoft.com/en-us/Licensing/product-licensing/products.aspx>. Microsoft changes the Product Terms from time to time (a new version generally is released each month). Before you order a particular version of a particular Product for the first time, you should download, print and keep a copy of the then-current version of the Product Terms for your records, as that copy will generally apply to every copy of that same version of Product you purchase thereafter. Each time Microsoft releases a new version of the Product, you should again check the then-current Product Terms to see if the rights and restrictions have changed, and be sure to print and save that new copy.

3. Microsoft's Online Service Terms document, which contains use rights and terms of service for Online Services. It is located at: <https://www.microsoft.com/en-us/Licensing/product-licensing/products.aspx>. Microsoft changes the Online Services Terms from time to time (a new version generally is released each month). Before you order a subscription for an Online Services Product, you should download, print and keep a copy of the then-current version of the Online Services Terms for your records. That version of the Online Services Terms will apply for the length of the subscription.

**28. Q. An item on the price list is labeled "Upgrade," "Step-Up," or is marked in some other way to imply that there may be special requirements to purchase that item. How can I determine if I'm eligible to purchase the item?**

- A. Product-specific eligibility requirements are listed on the Product Terms <https://www.microsoft.com/en-us/Licensing/product-licensing/products.aspx>

**29. Q. How can I tell if I am required to purchase a Client Access license (CAL) for my server?**

- A. If the workstations in your organization are networked, you likely depend on network server software to perform certain functions, such as file and print sharing. To access this server software legally, a Client Access License (CAL) may be required. A CAL is not a software product; rather, it is a license that gives a user the right to access the services of the server.

Likewise, if you manage the devices on your network by using management software such as Microsoft System Center, a Management License (ML) may be required for the device being managed.

Licensing software with CALs and MLs can be complicated due to the technical nature of server products and networks. Microsoft offers a device-based CAL (Device CAL) or a user-based CAL (User CAL) for purchase. In addition, an External Connector (EC) license is offered for some products as an optional alternative to address specific customer scenarios.

For managing devices, Microsoft offers Server MLs for managing server Operating System Environments (OSEs). For managing non-server devices, Microsoft offers OSE Client MLs and User Client MLs.

This overview is for reference purposes only. Before purchasing, you should visit the Product Terms at <https://www.microsoft.com/en-us/licensing/product-licensing/products.aspx#PT> or consult your Microsoft representative or reseller regarding your specific licensing needs.

**30. Q. My agency currently has an Agreement for Microsoft Products from the previous contract. What do I have to do to transition to this new contract?**

- A. Dell remains the current reseller of record. No action will be required from Authorized Users.

**31. Q. What is Microsoft Azure?**

- A. Microsoft Azure is a cloud computing platform and infrastructure created by Microsoft for building, deploying, and managing applications and services through a global network of Microsoft-managed data centers. It provides SaaS, PaaS, and IaaS services and supports many different programming languages, tools and frameworks, including both Microsoft-specific and third-party software and systems.

**32. Q. How do I purchase Azure?**

- A. Your Microsoft representative can assist in the creation of a package of Azure services to meet your specific technical need. This may include IaaS, PaaS, and or SaaS. These services may be provided in a government cloud or a commercial cloud depending on a number of factors including your status as a governmental body, the type of service, and the specific security need as well as other factors. Users should perform a data categorization exercise prior to exploring all cloud services to know their risks. This information will assist your Microsoft representative in building the package that best meets your needs.

**33. Q. What is GitHub Enterprise?**

- A. GitHub Enterprise is a code hosting platform for version control and collaboration. It allows groups of developers to collaborate on the same documents simultaneously and without overriding each other's work. It also allows you to see what changes were made, who made the changes, and view previous versions of files. GitHub Enterprise can be run on-premises or hosted in the cloud.

Please note that the Product GitHub Enterprise has its own set of terms and conditions located within the Microsoft Online Services Terms. Authorized Users are encouraged to read and understand these terms and conditions prior to purchasing GitHub Enterprise. The Online Services Terms are updated periodically (currently monthly) and the link to the latest version can be found above in section 4.2 of this document.

**34. Q. What are Government Community Cloud services?**

- A. Government Community Cloud Services are Microsoft Online Services that are provisioned in Microsoft's multi-tenant data centers for exclusive use by or for Authorized Users and are offered in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-145. Microsoft Online Services that are Government Community Cloud Services are designated as such in the Online Service Terms and Product Terms. **For each Online Service, information on whether the Product is deployed in the commercial cloud or the Government Community Cloud is provided on the NYS Price List in the field "Product Type".**

Office 365 US Government Community Cloud (GCC) services are provided only from data centers physically located within the United States. The following Authorized User data will be stored at rest in data centers physically located within the United States:

- Exchange Online mailbox content (email bodies, calendar entries, and the content of e-mail attachments);
- SharePoint Online site content and the files stored within that site; and
- Skype for Business archived conversations, uploaded documents, and whiteboarding session.

Additionally, Authorized User data will be logically segregated from customer content in Microsoft's commercial Office 365 Services and access to this data in the GCC by Microsoft personnel is restricted to personnel who are US citizens. These personnel undergo background investigations in accordance with relevant government standards. More information regarding these background screenings can be found in CMBA, Section 4.13, Government Community Cloud Services.

### **35. Q. What are commercial cloud Online Services?**

- A. Microsoft's commercial cloud Online Services include Azure, Office 365 commercial, Dynamics 365 and other cloud services identified in the Online Service Terms and the Product Terms. These services are deployed in Microsoft's multi-tenant data centers.

Most Azure services are deployed regionally and the Authorized User is able to specify the region into which the Authorized User's data will be stored and the Azure service will be deployed. Microsoft publishes information on the available commercial cloud regions on their website at <http://azuredatacentermap.azurewebsites.net/>.

Authorized Users must carefully consider each Contract offering and must make a determination if an offering complies with the Authorized User's statutory and regulatory requirements prior to acquisition and deployment. Authorized Users may refer to the NYS Price List posted on the OGS website for more information on each Product offering. **For each Online Service, information on whether the Product is deployed in the commercial cloud or the Government Community Cloud is provided on the NYS Price List in the field "Product Type".**

Authorized Users should be note that some commercial cloud Azure Services do not allow the Authorized User to specify the region where the service will be deployed. These services may store customer data in any of Microsoft's datacenters. An Authorized User must be aware of the terms of such services and whether this is in conflict with any of the Authorized User's statutory and regulatory requirements.

### **36. Q. What is a data categorization exercise?**

- A. This is the process used to determine the risk factors involved with specific data and the implications of placing it in a third party system. Please see <http://csrc.nist.gov/publications/fips/fips199/FIPS-PUB-199-final.pdf> and <https://its.ny.gov/document/information-classification-standard>.

### **37. Q. When an Authorized User approaches Microsoft to purchase the Azure Monetary Commit Provision for Government Community Cloud, how does Microsoft help the Authorized User assess what services they will need and what their estimated consumption may be, in order to help the Authorized User estimate the funds they will need to encumber for budgeting their Azure Services consumption?**

- A. Microsoft will work to:
- i. Document the business need and desired outcome;
  - ii. Provide reference architectures and work through technical decisioning on an approach of deploying to get to a agreed upon architecture;
  - iii. Work in partnership with the Authorized User's Reseller or directly with the Microsoft account team to develop a cost estimate in the Azure calculator, found at the following link: <https://azure.microsoft.com/en-us/pricing/calculator/>. This estimate is just that, an estimate, but can be used to work with Dell to create a specific Monetary Commitment; and
  - iv. Review with the Authorized User the cost estimate, purchasing options (as determined by the State) and technical approach.

**38. Q. Would you be able to walk us through the process that Microsoft and an Authorized User would go through when purchasing an Azure Monetary Commit Provision? I.e. Is there consumption forecasting prior to purchase; what is covered on the Azure Onboarding call; how do Users gain access to the Admin Portal and what kind of information and functionality do Users have on the Admin portal?**

A. Microsoft will:

- i. Review the cost estimate and technical approach with the Authorized User;
- ii. After 'purchase' or investment, Microsoft will arrange a Onboarding call with our Azure Concierges service to activate the tenant if 'new', if not a new customer, we will skip this step;
- iii. The Concierge Desk will review the Azure Administration portal with the Authorized User;
- iv. The local team can go deeper on administration, alerting and cost management approaches and configuration in the Azure Portal; and
- v. Review all approaches for viewing service usage and cost impact.

**39. Q. Are there any additional documentation that an Authorized User may refer to related to Azure Services onboarding?**

A. Microsoft has published a document, "Azure Onboarding Guide for IT Organizations", which can be found at <https://azure.microsoft.com/mediahandler/files/resourcefiles/d8e7430c-8f62-4bbb-9ca2-f2bc877b48bd/Azure%20Onboarding%20Guide%20for%20IT%20Organizations.pdf>

**40. .Q. What would be the process for transitioning to this contract?**

A. Dell is the current LSP of the Microsoft Contract. Therefore, existing customers will not have to sign any new Microsoft agreement specific paperwork. The only thing that that is changing for them is the new Contract price that will be applicable during the term of 60 months. Within the first 60 days of the Contract, Dell will reach out to all enrollments and provide them with the new quotes that will have the applicable due dates and new Contract pricing. Dell will prioritize the agreements that have the earliest payment dates. All of the Dell pricing will be applicable thru July 31, 2023, the new Contract term end date. Any agreements that have a due date beyond the period of performance of the awarded Contract, ending July 31, 2023, may be subject to pricing changes depending on the Contract that will be place after July 31, 2023.

**41. Q. Can you describe a proposed process for onboarding existing Enterprise Agreements/Program Agreements at the beginning of the term?**

A. Dell is the current LSP of the Microsoft Contract. Therefore existing customers will not have to sign any new Microsoft agreement specific paperwork. The only thing that is changing for them is the new Contract price that will be applicable during the term of 60 months. Within the first 60 days of the Contract, Dell will reach out to all enrollments and provide them with new quotes that will have the applicable due dates and new Contract pricing. Dell will prioritize the agreements that have the earliest payment dates.

There is no need for any additional paperwork as Dell is the current LSP. There is nothing needed of the end users to do other than use the new quotes and make their option year payments.

**42. Q. What is Dell's process and methodology for quoting pricing throughout the enrollment period?**

A. Dell's methodology is to only quote out the payments and orders that will fall within the Period of Performance (PoP) of the newly awarded Contract. For example, a new 3 year agreement signed on March 1, 2022, will only receive committed pricing from Dell for the 1st and the 2nd payment, as the 3rd payment due on March 1, 2024, falls outside the Period of Performance of the Contract. All Contracts that have payments due during the current PoP will have new pricing sent to them based on the newly awarded price within the first 60 days of Contract award, based on prioritization of due dates. There will be a second and third reminder sent 90 days and 60 days before a payment is due.

**43. Q. Can you describe how Dell will present information to customers and in what form customers will be required to sign program agreements, etc. as outlined in the CMBA?**

A. All requests for pricing on new Products or agreements will need to be submitted to Dell at: [nysoftwaresalesteam@dell.com](mailto:nysoftwaresalesteam@dell.com). For existing agreements, Dell will provide a price quotation directly to the customer. For new agreements, Dell will work with Microsoft to get new pricing the form of a Customer Price



Sheet (CPS) and will send over the price quotation, Microsoft Program Signature Form, Microsoft Enterprise Agreement Enrollment Form and any other applicable Microsoft amendments. These documents are provided via electronic transmission to be printed, signed and scanned to .pdf. The documentation would then be returned to Dell via electronic transmission. Terms are designated by Microsoft for each enrollment in that enrollment's Microsoft Enterprise Agreement form. A new agreement order is only complete on receipt of a purchase order and the signed agreement documents.