

Master License Agreement for Beta Software at Microsoft

IMPORTANT LICENSE INFORMATION FOR PARTICIPATION IN MICROSOFT BETA PROGRAMS *Please read carefully as there is new information regarding our licensing process*

In order to be considered as a candidate for participation in a Microsoft beta program, you or an authorized representative at your company must sign and return the Microsoft Master License Agreement for Beta Software (the “Agreement”). Please note that this Agreement provides default terms and conditions for any beta program in which you or other individuals in your company may participate in the future – by reviewing and signing the Agreement now, **your company typically will not be required to sign and return any further individual beta product license agreements for beta software provided.** Although individual beta software shipments to you will generally include additional license terms specific to the particular beta product (either online during set-up or otherwise included in the kit), the Agreement will apply in the absence of such separate license terms. You may always choose whether or not to accept the license terms accompanying any particular beta product; if you choose not to accept the terms you may simply return the beta product without installing, copying or otherwise using it. It is very important that the following steps be observed when submitting this Agreement:

- 1) Fill in the first section titled “recipient” and **print** your beta site ID, company name (if applicable), your name and email clearly and legibly. Your 6-digit beta site ID can be found in the email you received and should be kept for all communications with Microsoft regarding beta testing. If you (the recipient) are testing for a company and are not authorized to sign agreements that **bind your company**, forward the agreement to an authorized official to sign.
- 2) You (or the authorized official) should then fill in the rest of the Agreement and sign. The authorized representative should **print** clearly and legibly their name, title, physical address, phone and email address. P.O. boxes are not acceptable for shipping beta software.
- 3) The beta site contact name and company name included on the Agreement needs to match the name and company name that the original email was sent to. Contact us at betainfo@microsoft.com prior to returning the Agreement to change the beta contact or company name, if necessary.
- 4) Make sure to send us **all** pages when returning the Agreement.
 - Make sure to fill in all required information
 - Do not alter or revise the Agreement in any way. Modified or incomplete Agreements will not be accepted.

NOTE: If you are being invited to participate in multiple Microsoft beta programs, you may receive more than one email notifying you to sign the MLAB license agreement. Only ONE copy of the signed agreement is required.

MICROSOFT CORPORATION MASTER LICENSE AGREEMENT FOR BETA PRODUCTS

IMPORTANT: PLEASE COMPLETE THIS FORM AND RETURN IT TO MICROSOFT AT THE ADDRESS BELOW:

Upon receipt by Microsoft Corporation ("Microsoft") of this Microsoft Corporation Master Agreement for Beta Products (the "Agreement"), signed and completed by the individual or legal entity indicated below ("Recipient"), Microsoft may elect, at Microsoft's sole discretion, to provide Recipient with one or more deliveries of pre-release versions of Microsoft computer software and/or Microsoft hardware devices. For purposes of this Agreement, any pre-release software and any associated media, printed materials and "online" or electronic documentation shall be collectively referred to as the "**Software**." Any pre-release hardware devices and any associated Software, media, and printed materials shall be collectively referred to as the "**Hardware**." Collectively the Software and/or Hardware, along with any other accompanying software and/or hardware that may be useful for testing the Hardware and Software, may also be referred to as the "**Product**." Each Product is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Each Product is licensed, not sold. Each Product may be accompanied by a license agreement, in which case such license agreement shall supersede the terms of this Agreement only to the extent of any conflict and only with regard to the Product accompanying such license agreement. With regard to terms that are not in conflict, or in the absence of such separate license agreement, this Agreement shall control. In the event Recipient does not accept the license agreement accompanying any particular Product, Recipient is not authorized to copy, install, or otherwise use any portion of such Product.

1. **GRANT OF LICENSE.** This Agreement grants Recipient the following rights provided that Recipient complies with all terms and conditions of this Agreement:

(a) Microsoft grants to Recipient a limited, non-exclusive, nontransferable, royalty-free license to install and use one copy of the executable code of the Product on a single CPU residing on Recipient's premises, solely to test the compatibility of Recipient's application or other product(s) which operate in conjunction with the Product and to evaluate the Product for the purpose of providing feedback thereon to Microsoft. All other rights are reserved to Microsoft. Recipient shall not rent, lease, sell, sublicense, assign, or otherwise transfer any portion of the Product. Recipient may not reverse engineer, decompile or disassemble any portion of the Product, except and only to the extent that this limitation is expressly prohibited by applicable law notwithstanding this limitation.

(b) Recipient agrees to provide reasonable feedback to Microsoft, including but not limited to usability, bug reports and test results, with respect to Product testing. All bug reports, test results and other feedback provided to Microsoft by Recipient shall be the property of Microsoft and may be used by Microsoft for any purpose. Due to the nature of the development work, Microsoft provides no assurance that any specific errors or discrepancies in the Products will be corrected.

(c) Recipient may disclose the Product only to its employees who have a need to know in order to accomplish the purposes identified in Section 1(a), and such employees' use of the Product shall take place solely at Recipient's site. Recipient will have executed appropriate written agreements with its employees sufficient to enable it to comply with the terms of this Agreement.

(d) Recipient agrees that, for a period of up to six (6) months after commercial release of the Product, it will maintain a list of all employees who have had access hereunder to the Product or related information and provide such list to Microsoft upon Microsoft's request.

(e) In the event Microsoft, in its sole discretion, elects to provide deliveries of Product to more than one individual employed by Recipient (if Recipient is not a single individual), each such recipient shall be entitled to exercise the rights granted in this Agreement, and shall be bound by the terms and conditions herein.

2. **TERM OF AGREEMENT.** The term of this Agreement shall commence on the date signed by Recipient and shall continue until terminated by Microsoft in writing at any time, with or without cause. The license granted in Section 1 with respect to any Product will terminate without notice upon the earlier of (i) commercial release of the Software or Hardware contained in such Product or (ii) one year after the last date Recipient receives the Product or any Update thereto, unless terminated earlier by Microsoft. Upon the termination of this Agreement and/or the license granted in Section 1 with respect to any Product (or upon request by Microsoft), Recipient shall promptly return to Microsoft, or certify destruction of, all full or partial copies of the applicable Products provided by Microsoft. The following Sections shall survive termination or expiration of this Agreement (either in its entirety or with respect to any Product): Sections 1(b), 1(d), 7, 8, 9, and 10; and Section 5 with respect to any information that has not been made public by Microsoft as of the commercial release of the applicable Software or Hardware, provided that in no case shall Section 5 survive with respect to any Product longer than one year from receipt of the applicable Product.

3. **COST OF TESTING.** There is no charge to Recipient for testing of the Products. Microsoft shall bear all direct freight expenses relating to the shipment of the Products to Recipient's place of business and Recipient will pay any return freight expenses.

4. **PRODUCT MAINTENANCE/UPDATES.** Microsoft is not obligated to provide maintenance, technical support or updates to Recipient for Products provided to Recipient pursuant to this Agreement. However, Microsoft may, in its sole discretion, provide further pre-release versions, technical support, updates and/or supplements of any Product and/or related information ("Updates") to Recipient hereunder, in which case such Updates shall also be deemed to be included in the "Product" and the "Software" and

“Hardware,” and therefore governed by this Agreement, unless other terms of use are provided by Microsoft with such Updates. In no event shall Microsoft be obligated to provide Recipient a copy of the commercial release version of any Product in connection with Recipient’s participation in the testing program. Microsoft is not obligated to make any Product commercially available.

5. **CONFIDENTIALITY.** The Products, including their existence and features, and related information are proprietary and confidential information to Microsoft and its suppliers. Recipient agrees not to disclose or provide the Product, documentation, or any related information (including the Product features or the results of use or testing) to any third party, for a period of one year following receipt of the Product or commercial release of the Product, whichever occurs first. However, Recipient may disclose confidential information in accordance with judicial or other governmental order, provided Recipient shall give Microsoft reasonable written notice prior to such disclosure and shall comply with any applicable protective order or equivalent. Further, Recipient shall not be liable to Microsoft for disclosure of information which Recipient can prove (a) is already known to Recipient without an obligation to maintain the same as confidential; (b) becomes publicly known through no wrongful act of Recipient; (c) is rightfully received from a third party without breach of an obligation of confidentiality owed to Microsoft; or (d) is independently developed by Recipient.

6. **INTELLECTUAL PROPERTY RIGHTS.** All title and intellectual property rights in and to the Product (including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the Software and any features incorporated into the Hardware), and any copies of the Product that Recipient is expressly permitted to make herein, are owned by Microsoft or its suppliers. All title and intellectual property rights in and to the content which may be accessed through use of any Product are the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement grants Recipient no rights to use such content. If any Product contains documentation which is provided only in electronic form, Recipient may print one copy of such electronic documentation. Recipient may not copy the printed materials accompanying the Products. All rights not expressly granted are reserved by Microsoft.

7. **DISCLAIMER OF WARRANTIES. THE PRODUCTS ARE DEEMED ACCEPTED BY RECIPIENT. EACH PRODUCT CONTAINS PRE-RELEASE SOFTWARE AND/OR PRE-RELEASE HARDWARE AND MAY BE CHANGED SUBSTANTIALLY BEFORE COMMERCIAL RELEASE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MICROSOFT AND ITS SUPPLIERS PROVIDE THE PRODUCTS AND ANY (IF ANY) SUPPORT SERVICES RELATED TO THE PRODUCTS (“SUPPORT SERVICES”) AS IS AND WITH ALL FAULTS, AND HEREBY DISCLAIM WITH RESPECT TO THE PRODUCTS AND SUPPORT SERVICES ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY (IF ANY) WARRANTIES, DUTIES OR CONDITIONS OF OR RELATED TO: MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES, RESULTS, WORKMANLIKE EFFORT AND LACK OF NEGLIGENCE. ALSO, THERE IS NO WARRANTY, DUTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT. THE ENTIRE RISK AS TO THE QUALITY, OR ARISING OUT OF THE USE OR PERFORMANCE OF THE PRODUCTS AND ANY SUPPORT SERVICES, REMAINS WITH RECIPIENT.**

8. **EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT OR ITS SUPPLIERS BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR: LOSS OF PROFITS, LOSS OF CONFIDENTIAL OR OTHER INFORMATION, BUSINESS INTERRUPTION, PERSONAL INJURY, LOSS OF PRIVACY, FAILURE TO MEET ANY DUTY (INCLUDING OF GOOD FAITH OR OF REASONABLE CARE), NEGLIGENCE, AND ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE PRODUCTS OR SUPPORT SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF MICROSOFT OR ANY SUPPLIER, AND EVEN IF MICROSOFT OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO RECIPIENT.**

9. **LIMITATION OF LIABILITY AND REMEDIES. NOTWITHSTANDING ANY DAMAGES THAT RECIPIENT MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED ABOVE AND ALL DIRECT OR GENERAL DAMAGES), THE ENTIRE LIABILITY OF MICROSOFT AND ANY OF ITS SUPPLIERS UNDER ANY PROVISION OF THIS AGREEMENT AND RECIPIENT’S EXCLUSIVE REMEDY FOR ALL OF THE FOREGOING SHALL BE LIMITED TO ACTUAL DAMAGES INCURRED BY YOU BASED ON REASONABLE RELIANCE UP TO THE GREATER OF THE AMOUNT ACTUALLY PAID BY RECIPIENT FOR THE PRODUCT OR FIVE DOLLARS (US\$5.00). THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS**

(INCLUDING SECTIONS 7 AND 8 ABOVE) SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

10. **GOVERNING LAW/JURISDICTION/ATTORNEYS' FEES.** This Agreement shall be construed and controlled by the laws of the State of Washington, and Recipient consents to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, unless no federal jurisdiction exists, in which case Recipient consents to exclusive jurisdiction and venue in the Superior Court of King County, Washington. Recipient waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and other expenses.

11. **U.S. GOVERNMENT RIGHTS.** All Software provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the rights and restrictions described elsewhere herein. All Software provided to the U.S. Government pursuant to solicitations issued prior to December 1, 1995 is provided with RESTRICTED RIGHTS as provided for in FAR, 48 CFR 52.227-14 (JUNE 1987) or DFAR, 48 CFR 252.227-7013 (OCT 1988), as applicable.

12. **EXPORT RESTRICTIONS.** Recipient acknowledges that Products are of U.S. origin. Recipient agrees to comply with all applicable international and national laws that apply to the Products, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.

13. **NOTE ON JAVA SUPPORT.** THE SOFTWARE MAY CONTAIN SUPPORT FOR PROGRAMS WRITTEN IN JAVA. JAVA TECHNOLOGY IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF JAVA TECHNOLOGY COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. Sun Microsystems, Inc. has contractually obligated Microsoft to make this disclaimer.

14. **ENTIRE AGREEMENT.** This Agreement constitutes the complete and exclusive agreement between Microsoft and Recipient with respect to the subject matter hereof, and supersedes all prior or contemporaneous oral or written communications, proposals, representations, understandings, or agreements not specifically incorporated herein. This Agreement may not be amended except in a writing duly signed by an authorized representative of Microsoft and Recipient.

15. **PARTIES BOUND.** If "Company Name" or a company address is filled in below, then the individual signing this Agreement represents that he/she has authority to execute this agreement on behalf of such company and agrees that the Products (and any copies thereof) shall remain on the company premises, unless otherwise agreed by Microsoft.

IN WITNESS WHEREOF, Recipient has caused this Agreement to be executed by its duly authorized representative.

RECIPIENT: To ensure legibility PRINT CLEARLY; give completed document to your authorized representative to sign and return to Microsoft. If you are receiving this Master License Agreement as an individual (not testing for a company), please mark N/A for Company Name. Your Beta ID can be found in the email you received.

Beta Site ID (REQUIRED)

Company Name (Company Name or N/A REQUIRED)

Email Address (REQUIRED)

Beta Site Contact/Tester (Recipient) PLEASE PRINT (REQUIRED)

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AUTHORIZED REPRESENTATIVE: Please sign and clearly print your name and contact information below.
Forward to Microsoft per instructions below.

Authorized Representative's Signature (REQUIRED)

Print Authorized Signature and Title (REQUIRED)

Physical Address (No P.O. Boxes) (REQUIRED)

City, State, Zip (REQUIRED)

Country (REQUIRED)

Phone Number (REQUIRED)

Fax Number

Email Address (REQUIRED)

Date Signed (REQUIRED)

When returning this Master License Agreement by fax or mail, make sure to send *all* pages. Incomplete or modified Master License Agreements will *not* be accepted.

RETURN TO:
Microsoft Corporation
Attn: Beta MLAB Processing 21/1
One Microsoft Way
Redmond, WA 98052-6399

OR FAX TO:
Microsoft Corporation
Attn: Beta MLAB Processing 21/1
425-936-7329