

END-USER LICENSE AGREEMENT

SERVER LICENSE FOR MICROSOFT SQL SERVER PRODUCTS

IMPORTANT – READ CAREFULLY: This End-User License Agreement (“EULA”) is a legal agreement between you (either an individual or a single entity) and Microsoft Corporation for the Microsoft software product identified above, which includes computer software and may include associated media, printed materials, and “online” or electronic documentation (“Product”). An amendment or addendum to this EULA may accompany the Product. **YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA BY INSTALLING, COPYING, OR OTHERWISE USING THE PRODUCT. IF YOU DO NOT AGREE, DO NOT INSTALL OR USE THE PRODUCT; YOU MAY RETURN IT TO YOUR PLACE OF PURCHASE FOR A FULL REFUND.**

The Product may contain the following software:

- “Server Software” provides services or functionality on your server (your computers capable of running the Server Software are “Servers”);
- “Client Software” allows an electronic device (“Device”) to access or utilize the Server Software.

NOTE: You have acquired the Product for either a “Per-Seat” (with Client Access Licenses) or “Per-Processor” use. Per Seat use is described in Section 1a; Per-Processor use is described in Section 1b. You may not change the type of use.

1. **a. GRANT OF LICENSE – “PER-SEAT”.** Microsoft grants you the following rights provided you comply with all terms and conditions of this EULA:

i. **Installation -- Server Software.** You may install and use one copy of the Server Software on a single Server. *SQL Server, Enterprise Edition.* If you have acquired the Enterprise Edition of the Server Software, you may install any number of instances of the Server Software on that Server. An “instance” shall mean a running copy of the Server Software. *Client Software.* You may install the Client Software (SQL Server Personal Edition) on any internal Device.

ii. **SQL Server 2000 Client Access License (“CAL”) Requirements.** CALs that you acquire may be used only in conjunction with your Server Software. You must acquire a separate CAL for each Device that:

- accesses or otherwise utilizes the services of the Server Software (*including* Devices using MSDE for such access), or
- installs and uses SQL Server Personal Edition, or
- uses the Management Tools, Books-Online, and Development Tools components of Microsoft SQL Server (collectively “Tools”). You may only use the Tools for internal use in conjunction with your Server Software.

Version Matching. Any CAL must have the same or later version number than the corresponding version number of the Server Software being used.

iii. **Installation Of Server Software On Passive Fail-Over Server.** If the Server Software is used in a clustered environment, you may use the Server Software on a temporary basis on a Server that is employed only for fail-over support.

iv. **“Multiplexing.”** Hardware or software that reduces the number of Devices directly accessing or using the Server Software *does not* reduce the number of required CALs. The number you need is based on the number of distinct inputs to the hardware or software “front end.”

OR

b. GRANT OF LICENSE – “PER PROCESSOR”. Microsoft grants you the following rights provided you comply with all terms and conditions of this EULA:

i. **Server Software.** You may install one copy of the Server Software on a single Server. If the Server has more than one processor, you must obtain a separate license for each processor on that Server. You may use the Server Software only with that number of processors for which you are properly licensed, as set forth above. You may use the Management Tools, Books-Online, and Development Tools components of Microsoft SQL Server (collectively “Tools”) solely for internal use in conjunction with your Server Software. *SQL Server, Enterprise Edition.* If you have acquired the Enterprise Edition of the Server Software, you may also install any number of instances of the Server Software on

the Server for use by any processor for which you have acquired a license. An "instance" shall mean a running copy of the Server Software.

ii. **Client Software.** You may install and use the Client Software (SQL Server Personal Edition) on any number of internal Devices so long as it is being used only in conjunction with the Server Software.

iii. **SQL Server 2000 Device Access.** Any number of Devices may use or access the services of a Server running the Server Software so long as you have acquired a valid license for each processor running the Server Software.

iv. **Installation Of Server Software On Passive Fail-Over Server.** If the Server Software is used in a clustered environment, you may use the Server Software on a temporary basis on a Server that is employed only for fail-over support (the "Passive Server") so long as the number of processors on the Passive Server does not exceed the number of processors on your primary active Server.

c. **Use of Redistributable Code.** In addition to the rights granted above, Microsoft grants you the nonexclusive, royalty-free right to use, reproduce and distribute the Microsoft SQL Server Desktop Engine ("MSDE") and the files listed in the REDIST.TXT contained in the Product (collectively, the "Redistributable Code"), provided that you also comply with the following:

i. **General Requirements.** If you choose to redistribute any portion of the Redistributable Code, you agree:

- A. to distribute the Redistributable Code in object code form and only in conjunction with and as a part of a software application product developed by you that adds significant and primary functionality to the Product ("Application");
- B. not to use Microsoft's name, logo, or trademarks to market the Application;
- C. to include a valid copyright notice in your name on the Application;
- D. to indemnify, hold harmless, and defend Microsoft from and against any claims or lawsuits, including attorney's fees, that arise or result from the use or distribution of the Application; and
- E. to otherwise comply with the terms of this EULA.

You also agree not to permit further distribution of the Redistributable Code by your end users except you may permit further redistribution of the Redistributable Code by your distributors if they only distribute the Redistributable Code in conjunction with, and as part of, the Application and you and your distributors comply with all other terms of this EULA.

ii. **Additional Requirements for MSDE.** If you choose to redistribute MSDE, you also agree:

- A. that your Application shall not substantially duplicate the capabilities of Microsoft Access or, in the reasonable opinion of Microsoft, compete with same; and
- B. that unless your Application requires your customers to license Microsoft Access in order to operate, you shall not reproduce or use MSDE for commercial distribution in conjunction with a general purpose word processing, spreadsheet or database management software product, or an integrated work or product suite whose components include a general purpose word processing, spreadsheet, or database management software product except for the exclusive use of importing data to the various formats supported by Microsoft Access.
Note: A product that includes limited word processing, spreadsheet or database components along with other components which provide significant and primary value, such as an accounting product with limited spreadsheet capability, is not considered to be a "general purpose" product.

d. **Reservation of Rights.** Microsoft reserves all rights not expressly granted to you in this EULA.

e. **Benchmark Testing.** You may not disclose the results of any benchmark test of either the Server Software or Client Software to any third party without Microsoft's prior written approval.

f. **Downgrades.** Instead of installing and using the Server Software, you may install and use one copy of an earlier version of the Server Software on a single Server, provided that you completely remove such earlier version and install the original Server Software within a reasonable time. Your use of such earlier version shall be governed by this EULA, and your rights to use such earlier version shall terminate when you install the original Server Software.

- 2. **NO RENTAL/NO COMMERCIAL HOSTING.** You may not rent, lease, lend, or provide commercial hosting services with the Product.
- 3. **UPGRADES.** To use a Product identified as an upgrade, you must first be licensed for the product identified by Microsoft as eligible for the upgrade. After upgrading, you may no longer use the product that formed the basis for your upgrade eligibility.

Upgrades for a component of Microsoft BackOffice Server or Microsoft BackOffice Small Business Server. When you install the Server Software, the Server Software replaces the server software component of Microsoft BackOffice Server or Microsoft Small

Business Server being upgraded, and you may use the Server Software in accordance with the terms of this EULA. The remaining components of BackOffice Server or Small Business Server may only be used in accordance with the terms of the end-user license agreement that accompanied the original product suite.

4. **ADDITIONAL SOFTWARE/ COMPONENT LICENSES.** This EULA applies to updates or supplements to the original Product provided by Microsoft, unless we provide other terms along with the update or supplement. The Product may contain certain components (each, a "Component") that included a separate end user license agreement (a "Component Agreement"). The terms of any Component Agreement are herein incorporated by reference to this EULA; in the event of any inconsistencies between this EULA and any Component Agreement, the terms of this EULA shall control.
5. **TRANSFER – Internal.** You may move the Server Software to a different Server. **Transfer to Third Party.** The initial user of the Product may make a one-time transfer of the Product to another end user. The transfer has to include all component parts, media, printed materials, this EULA, and if applicable, the Certificate of Authenticity. The transfer may not be an indirect transfer, such as a consignment. Prior to the transfer, the end user receiving the transferred Product must agree to all the EULA terms.
6. **LIMITATION ON REVERSE ENGINEERING, DECOMPILE, AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the Product, except and only to the extent that it is expressly permitted by applicable law notwithstanding this limitation.
7. **TERMINATION.** Without prejudice to any other rights, Microsoft may cancel this EULA if you do not abide by the terms and conditions of this EULA, in which case you must destroy all copies of the Product and all of its component parts.
8. **CONSENT TO USE OF DATA.** You agree that Microsoft and its affiliates may collect and use technical information you provide as a part of support services related to the Product. Microsoft agrees not to use this information in a form that personally identifies you.
9. **NOT FOR RESALE SOFTWARE.** Product identified as "Not for Resale" or "NFR," may not be resold, transferred or used for any purpose other than demonstration, test or evaluation.
10. **ACADEMIC EDITION SOFTWARE.** To use Product identified as "Academic Edition" or "AE," you must be a "Qualified Educational User." For qualification-related questions, please contact the Microsoft Sales Information Center/One Microsoft Way/Redmond, WA 98052-6399 or the Microsoft subsidiary serving your country.
13. **EXPORT RESTRICTIONS.** You acknowledge that Product is of U.S. origin. You agree to comply with all applicable international and national laws that apply to the Product, 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/>.

14 LIMITED WARRANTY

Microsoft warrants that the Product will perform substantially in accordance with the accompanying materials for a period of ninety days from the date of receipt.

If an implied warranty or condition is created by your state/jurisdiction and federal or state/provincial law prohibits disclaimer of it, you also have an implied warranty or condition, BUT ONLY AS TO DEFECTS DISCOVERED DURING THE PERIOD OF THIS LIMITED WARRANTY (NINETY DAYS). AS TO ANY DEFECTS DISCOVERED AFTER THE NINETY (90) DAY PERIOD, THERE IS NO WARRANTY OR CONDITION OF ANY KIND. Some states/jurisdictions do not allow limitations on how long an implied warranty or condition lasts, so the above limitation may not apply to you.

Any supplements or updates to the Product, including without limitation, any (if any) service packs or hot fixes provided to you after the expiration of the ninety day Limited Warranty period are not covered by any warranty or condition, express, implied or statutory.

LIMITATION ON REMEDIES; NO CONSEQUENTIAL OR OTHER DAMAGES. Your exclusive remedy for any breach of this Limited Warranty is as set forth below. **Except for any refund elected by Microsoft, YOU ARE NOT ENTITLED TO ANY DAMAGES, INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL DAMAGES, if the Product does not meet Microsoft's Limited Warranty, and, to the maximum extent allowed by applicable law, even if any remedy fails of its essential purpose.** The terms of **Section 16** below ("Exclusion of Incidental, Consequential and Certain Other Damages") are also incorporated into this Limited Warranty. Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This Limited Warranty gives you specific legal rights. You may have others which vary from state/jurisdiction to state/jurisdiction. **YOUR EXCLUSIVE REMEDY.** Microsoft's and its suppliers' entire liability and your exclusive remedy shall be, at Microsoft's option from time to time exercised subject to applicable law, (a) return of the price paid (if any) for the Product, or (b) repair or replacement of the Product, that does not meet this Limited Warranty and that is returned to Microsoft with a copy of your receipt. You will receive the remedy elected by Microsoft without charge, except that you are responsible for any expenses you may incur (e.g. cost of shipping the Product to Microsoft). This Limited Warranty is void if failure of the Product has resulted from accident, abuse, misapplication, abnormal use or a virus. Any replacement Product will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer. Outside the United States or Canada, neither these remedies nor any product support services offered by Microsoft are available without proof of purchase from an authorized international source. To exercise your remedy, contact: Microsoft, Attn. Microsoft Sales Information Center/One Microsoft Way/Redmond, WA 98052-6399, or the Microsoft subsidiary serving your country.

15. **DISCLAIMER OF WARRANTIES.** The Limited Warranty that appears above is the only express warranty made to you and is provided in lieu of any other express warranties (if any) created by any documentation or packaging. **Except for the Limited Warranty and to the maximum extent permitted by applicable law, Microsoft and its suppliers provide the Product and Support Services (if any) AS IS AND WITH ALL FAULTS,** and hereby disclaim all other warranties and conditions, either express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence, all with regard to the Product, and the provision of or failure to provide Support Services. **ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THE PRODUCT.**
 16. **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 SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE PRODUCT, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS EULA, 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.
 17. **LIMITATION OF LIABILITY AND REMEDIES.** Notwithstanding any damages that you 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 EULA and your exclusive remedy for all of the foregoing (except for any remedy of repair or replacement elected by Microsoft with respect to any breach of the Limited Warranty) shall be limited to the greater of the amount actually paid by you for the Product or U.S.\$5.00. The foregoing limitations, exclusions and disclaimers (including Sections 14, 15 and 16 above) shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.
 18. **U.S. GOVERNMENT LICENSE RIGHTS.** All Product provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described elsewhere herein. All Product 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.
 19. **APPLICABLE LAW.** If you acquired this Product in the United States, this EULA is governed by the laws of the State of Washington. If you acquired this Product in Canada, unless expressly prohibited by local law, this EULA is governed by the laws in force in the Province of Ontario, Canada; and, in respect of any dispute which may arise hereunder, you consent to the jurisdiction of the federal and provincial courts sitting in Toronto, Ontario. If this Product was acquired outside the United States, then local law may apply.
 20. **ENTIRE AGREEMENT.** This EULA, including any addendum or amendment to this EULA which is included with the Product, are the entire agreement between you and Microsoft relating to the Product and the Support Services (if any) and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Product or any other subject matter covered by this EULA. To the extent the terms of any Microsoft policies or programs for Support Services conflict with the terms of this EULA, the terms of this EULA shall control.
 21. The Product is protected by copyright and other intellectual property laws and treaties. Microsoft or its suppliers own the title, copyright, and other intellectual property rights in the Product. **The Product is licensed, not sold.**
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