

MICROSOFT SOFTWARE LICENSE TERMS

MICROSOFT SQL SERVER 2005 STANDARD AND ENTERPRISE EDITIONS

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Each license for the software is acquired under either the Server + Client Access License model or the Per Processor license model, and may not be changed. If you comply with these license terms you have the rights below for each software license you acquire or each server you appropriately license, as further explained in sections 2 and 3.

1. OVERVIEW.

a. Software. The software includes

- server software; and
- additional software that may only be used with the server software directly, or indirectly through other additional software.

b. License Models. The software is licensed based on either:

- the number of instances of server software that you run and the number of devices and users that access instances of the server software (see section 2 – Terms Specific to the Server + Client Access License Model); or
- the number of physical and virtual processors used by operating system environments in which you run instances of the server software (see section 3 – Terms Specific to the Per Processor License Model).

c. Definitions.

- **Instance.** You create an "instance" of software by executing the software's setup or install procedure. You also create an instance of software by duplicating an existing instance. References to software in this agreement include "instances" of the software.
- **Run an Instance.** You "run an instance" of software by loading it into memory and executing one or more of its instructions. Once running, an instance is considered to be running (whether or not its instructions continue to execute) until it is removed from memory.
- **Operating System Environment.** An "operating system environment" is one instance of an operating system and instances of applications, if any, configured to run on that operating system instance. There are two types of operating system environments, physical and virtual. A physical operating system environment is configured to run directly on a physical hardware system. A virtual operating system environment is configured to run on a virtual (or otherwise emulated) hardware system. A physical hardware system can have either or both of the following:
 - one physical operating system environment
 - one or more virtual operating system environments
- **Server.** A server is a physical hardware system capable of running server software. A hardware partition or blade is considered to be a separate physical hardware system.

- **Physical and Virtual Processors.** A physical processor is a processor in a physical hardware system. Physical operating system environments use physical processors. A virtual processor is a processor in a virtual (or otherwise emulated) hardware system. Virtual operating system environments use virtual processors. A virtual processor is considered to have the same number of threads and cores as each physical processor on the underlying physical hardware system.
- **Assigning a Software License.** To assign a software license means simply to designate that license to one server.

2. TERMS SPECIFIC TO THE SERVER + CLIENT ACCESS LICENSE MODEL.

a. Assigning the License to the Server.

- i. Before you run any instance of the server software under a software license, you must assign that license to one of your servers. That server is the licensed server for that particular license. You may assign other software licenses to the same server, but you may not assign the same license to more than one server. A hardware partition or blade is considered to be a separate server.
- ii. You may reassign a software license, but not within 90 days of the last assignment. You may reassign a software license sooner if you retire the licensed server due to permanent hardware failure. If you reassign a license, the server to which you reassign the license becomes the new licensed server for that license.

b. Running Instances of the Server Software.

You may run any number of instances of the server software in one physical or virtual operating system environment on the licensed server at a time.

c. Running Instances of the Additional Software.

You may run or otherwise use any number of instances of additional software listed below on any number of devices. You may use additional software only with the server software directly, or indirectly through other additional software.

- Analysis Services Shared Tools
- Business Intelligence Development Studio
- SQL Server 2005 Books Online
- Connectivity Components
- Legacy Components
- Management Tools
- Notification Services Client Components
- Reporting Services Report Manager
- Reporting Services Shared Tools
- SQL Server 2005 Shared Tools
- Software Development Kit
- SQLXML Client Features
- SQL Server Mobile Server Tools

d. Creating and Storing Instances on Your Servers or Storage Media.

You have the additional rights below for each software license you acquire.

- You may create any number of instances of the server software and additional software.
- You may store instances of the server software and additional software on any of your servers or storage media.
- You may create and store instances of the server software and additional software solely to exercise your right to run instances of the server software under any of your software licenses as described above (e.g., you may not distribute instances to third parties).

e. Included Microsoft Programs.

The software contains other Microsoft programs. The license terms with those programs apply to your use of them.

f. Client Access Licenses (CALs).

- i. In addition to the software license, you must acquire the appropriate CAL for each device or user that accesses instances of the server software directly or indirectly.

- You may not access instances of the server software under Workgroup Edition CALs.
- You do not need a CAL for any of your servers licensed to run instances of the server software.
- You do not need a CAL for up to two devices or users to access instances of the server software only to administer those instances.
- Your CALs permit access to instances of earlier versions, but not later versions, of the server software.

ii. Types of CALs. There are two types of CALs: one for devices and one for users. Each device CAL permits one device, used by any user, to access instances of the server software on your licensed servers. Each user CAL permits one user, using any device, to access instances of the server software on your licensed servers. You may use a combination of device and user CALs.

iii. Reassignment of CALs. You may

- permanently reassign your device CAL from one device to another, or your user CAL from one user to another; or
- temporarily reassign your device CAL to a loaner device while the first device is out of service, or your user CAL to a temporary worker while the user is absent.

3. TERMS SPECIFIC TO THE PER PROCESSOR LICENSE MODEL.

a. Licensing a Server. Before you run instances of the server software on a server, you must determine the required number of software licenses and assign those licenses to that server as described below.

i. Determining the Number of Licenses Required. You must first determine the number of software licenses you need. The total number of software licenses required for a server equals the sum of the software licenses required under (A) and (B) below.

- A. To run instances of the server software in the physical operating system environment on a server, you need a software license for each physical processor that the physical operating system environment uses.
- B. To run instances of the server software in virtual operating system environments on a server, you need a software license for each virtual processor that each of those virtual operating system environments uses. If a virtual operating system environment uses a fraction of a virtual processor, the fraction counts as a full virtual processor.

b. Assigning the Required Number of Licenses to the Server.

i. After you determine the number of software licenses you need for a server, you must assign that number of software licenses to that server. That server is the licensed server for all of those licenses. You may not assign the same license to more than one server. A hardware partition or blade is considered to be a separate server.

ii. You may reassign the software license, but not within 90 days of the last assignment. You may reassign a software license sooner if you retire the licensed server due to permanent hardware failure. If you reassign a license, the server to which you reassign the license becomes the new licensed server for that license.

c. Running Instances of the Server Software. For each server to which you have assigned the required number of software licenses, you may run, at any one time, any number of instances of the server software in physical and virtual operating system environments on the licensed server. However, the total number of physical and virtual processors used by those operating system environments cannot exceed the number of software licenses assigned to that server.

d. Running Instances of the Additional Software. You may run or otherwise use any number of instances of additional software listed below on any number of devices. You may use additional software only with the server software directly, or indirectly through other additional software.

- Analysis Services Shared Tools
- Business Intelligence Development Studio
- SQL Server 2005 Books Online
- Connectivity Components
- Legacy Components
- Management Tools

- Notification Services Client Components
 - Reporting Services Report Manager
 - Reporting Services Shared Tools
 - SQL Server 2005 Shared Tools
 - Software Development Kit
 - SQLXML Client Features
 - SQL Server Mobile Server Tools
- e. **Creating and Storing Instances on Your Servers or Storage Media.** You have the additional rights below for each software license you acquire.
- You may create any number of instances of the server software and additional software.
 - You may store instances of the server software and additional software on any of your servers or storage media.
 - You may create and store instances of the server software and additional software solely to exercise your right to run instances of the server software under any of your software licenses as described above (e.g., you may not distribute instances to third parties).
- f. **Included Microsoft Programs.** The Software contains other Microsoft programs. The license terms with those programs apply to your use of them.

4. **ADDITIONAL LICENSING REQUIREMENTS AND/OR USE RIGHTS.**

- a. **Multiplexing.** Hardware or software you use to:
- pool connections,
 - reroute information,
 - reduce the number of devices or users that directly access or use the software, or
 - reduce the number of devices or users the software directly manages,
- (sometimes referred to as “multiplexing” or “pooling”), does not reduce the number of licenses you need.
- b. **Fail-over Rights.** For any operating system environment in which you run instances of the server software, you may run up to the same number of passive fail-over instances in a separate operating system environment for temporary support. If you have licensed the server software under the Per Processor licensing model, the number of processors used in that separate operating system environment must not exceed the number of processors used in the corresponding operating system environment in which the active instances are running. You may run the passive fail-over instances on a server other than the licensed server.
- c. **No Separation of Server Software.** You may not use the server software in more than one operating system environment under a single license, unless expressly permitted. This applies even if the operating system environments are on the same physical hardware system.
- d. **.NET Framework Software.** The software contains Microsoft .NET Framework software. This software is part of Windows. The license terms for Windows apply to your use of the .NET Framework software.
- e. **Microsoft Operations Manager (MOM) Management Packs.** The software may contain MOM Management Packs. This data is part of MOM. The license terms for MOM apply to your use of these MOM Management Packs.
- f. **Distributable Code. The software contains code that you are permitted to distribute in programs you develop if you comply with the terms below.**
- i. **Right to Use and Distribute. The code and text files listed below are “Distributable Code.”**
- Sample Code. You may modify, copy, and distribute the source and object code form of code marked as “sample.”
 - Third Party Distribution. You may permit distributors of your programs to copy and distribute the Distributable Code as part of those programs.
- ii. **Distribution Requirements. For any Distributable Code you distribute, you must**
- add significant primary functionality to it in your programs;

- require distributors and external end users to agree to terms that protect it at least as much as this agreement;
- display your valid copyright notice on your programs; and
- indemnify, defend, and hold harmless Microsoft from any claims, including attorneys' fees, related to the distribution or use of your programs.

iii. Distribution Restrictions. You may not

- alter any copyright, trademark or patent notice in the Distributable Code;
- use Microsoft's trademarks in your programs' names or in a way that suggests your programs come from or are endorsed by Microsoft;
- distribute Distributable Code to run on a platform other than the Windows platform;
- include Distributable Code in malicious, deceptive or unlawful programs; or
- modify or distribute the source code of any Distributable Code so that any part of it becomes subject to an Excluded License. An Excluded License is one that requires, as a condition of use, modification or distribution, that
 - the code be disclosed or distributed in source code form; or
 - others have the right to modify it.

5. **BENCHMARK TESTING.** You must obtain Microsoft's prior written approval to disclose to a third party the results of any benchmark test of the software. However, this does not apply to the Microsoft .NET Framework (see below).

6. **MICROSOFT .NET FRAMEWORK BENCHMARK TESTING.** The software includes the .NET Framework component of the Windows operating systems (".NET Component"). You may conduct internal benchmark testing of the .NET Component. You may disclose the results of any benchmark test of the .NET Component, provided that you comply with the following terms: (1) you must disclose all the information necessary for replication of the tests, including complete and accurate details of your benchmark testing methodology, the test scripts/cases, tuning parameters applied, hardware and software platforms tested, the name and version number of any third party testing tool used to conduct the testing, and complete source code for the benchmark suite/harness that is developed by or for you and used to test both the .NET Component and the competing implementation(s); (2) you must disclose the date (s) that you conducted the benchmark tests, along with specific version information for all Microsoft software products tested, including the .NET Component; (3) your benchmark testing was performed using all performance tuning and best practice guidance set forth in the product documentation and/or on Microsoft's support web sites, and uses the latest updates, patches and fixes available for the .NET Component and the relevant Microsoft operating system; (4) it shall be sufficient if you make the disclosures provided for above at a publicly available location such as a website, so long as every public disclosure of the results of your benchmark test expressly identifies the public site containing all required disclosures; and (5) nothing in this provision shall be deemed to waive any other right that you may have to conduct benchmark testing. The foregoing obligations shall not apply to your disclosure of the results of any customized benchmark test of the .NET Component, whereby such disclosure is made under confidentiality in conjunction with a bid request by a prospective customer, such customer's application(s) are specifically tested and the results are only disclosed to such specific customer. Notwithstanding any other agreement you may have with Microsoft, if you disclose such benchmark test results, Microsoft shall have the right to disclose the results of benchmark tests it conducts of your products that compete with the .NET Component, provided it complies with the same conditions above.

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- reverse engineer, decompile or disassemble the software, except and only to the extent that applicable law expressly permits, despite this limitation;
- publish the software for others to copy;
- rent, lease or lend the software; or
- use the software for commercial software hosting services.

Rights to access the server software do not give you any right to implement Microsoft patents or other Microsoft intellectual property in software or devices that access the server.

8. **BACKUP COPY.** You may make one backup copy of the software media. You may use it only to create instances of the software.
9. **DOCUMENTATION.** Any person that has valid access to your computer or internal network may copy and use the documentation for your internal, reference purposes.
10. **NOT FOR RESALE SOFTWARE.** You may not sell software marked as "NFR" or "Not for Resale."
11. **ACADEMIC EDITION SOFTWARE.** You must be a "Qualified Educational User" to use software marked as "Academic Edition" or "AE." If you do not know whether you are a Qualified Educational User, visit www.microsoft.com/education or contact the Microsoft affiliate serving your country.
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13. **TRANSFER TO A THIRD PARTY.** The first user of the software may transfer it, this agreement, and CALs, directly to a third party. Before the transfer, that party must agree that this agreement applies to the transfer and use of the software. The first user may not retain any instances of the software unless that user also retains another license for the software.
14. **EXPORT RESTRICTIONS.** The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see www.microsoft.com/exporting.
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 - a. **United States.** If you acquired the software in the United States, Washington state law governs the interpretation of this agreement and applies to claims for breach of it, regardless of conflict of laws principles. The laws of the state where you live govern all other claims, including claims under state consumer protection laws, unfair competition laws, and in tort.
 - b. **Outside the United States.** If you acquired the software in any other country, the laws of that country apply.
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19. **LIMITATION ON AND EXCLUSION OF DAMAGES. You can recover from Microsoft and its suppliers only direct damages up to the amount you paid for the software. You cannot recover any other damages, including consequential, lost profits, special, indirect or incidental damages.**

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- claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort to the extent permitted by applicable law.

It also applies even if

- repair, replacement or a refund for the software does not fully compensate you for any losses; or
- Microsoft knew or should have known about the possibility of the damages.

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LIMITED WARRANTY

- A. LIMITED WARRANTY.** If you follow the instructions, the software will perform substantially as described in the Microsoft materials that you receive in or with the software.
- B. TERM OF WARRANTY; WARRANTY RECIPIENT; LENGTH OF ANY IMPLIED WARRANTIES.** The limited warranty covers the software for one year after acquired by the first user. If you receive supplements, updates, or replacement software during that year, they will be covered for the remainder of the warranty or 30 days, whichever is longer. If the first user transfers the software, the remainder of the warranty will apply to the recipient.
- To the extent permitted by law, any implied warranties, guarantees or conditions last only during the term of the limited warranty. Some states do not allow limitations on how long an implied warranty lasts, so these limitations may not apply to you. They also might not apply to you because some countries may not allow limitations on how long an implied warranty, guarantee or condition lasts.
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- D. REMEDY FOR BREACH OF WARRANTY.** Microsoft will repair or replace the software at no charge. If Microsoft cannot repair or replace it, Microsoft will refund the amount shown on your receipt for the software. It will also repair or replace supplements, updates and replacement software at no charge. If Microsoft cannot repair or replace them, it will refund the amount you paid for them, if any. You must uninstall the software and return any media and other associated materials to Microsoft with proof of purchase to obtain a refund. These are your only remedies for breach of the limited warranty.
- E. CONSUMER RIGHTS NOT AFFECTED.** You may have additional consumer rights under your local laws, which this agreement cannot change.
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 - visit www.microsoft.com/info/nareturns.htm.
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 - 3. Outside United States, Canada, Europe, Middle East and Africa.** If you acquired the software outside the United States, Canada, Europe, the Middle East and Africa, contact the Microsoft affiliate serving your country (see www.microsoft.com/worldwide).
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- H. LIMITATION ON AND EXCLUSION OF DAMAGES FOR BREACH OF WARRANTY.** The Limitation on and Exclusion of Damages clause above applies to breaches of this limited warranty.

This warranty gives you specific legal rights, and you may also have other rights which vary from state to state. You may also have other rights which vary from country to country.