PROGRAM AGREEMENT

This is a volume licensing program for DoD ESI agencies based on the DoD forecast for new and renewal desktop enrollments. The prices in this program agreement recognize all agencies that are authorized to order under BPA N00104-02-A-ZE81 as a collective organization. Any reference to "DoD ESI agency", "agency", or "affiliate" in this document means any entity defined as an Authorized User under the BPA.

PROGRAM OFFERING:

This program allows for an agency to standardize the desktops in their organization at a greatly reduced price (based on purchasing separate products under the GSA Schedule, or other similar vehicle). Special volume discounts are provided for the following Desktop Product Configurations:

1. Standard Configuration:
   a. Operating System Upgrade
   b. Office Professional
   c. Windows, Exchange, and SMS CAL
   d. Provides product upgrades and updates to the above products for three-year term of enrollment.

2. Enhanced Configuration:
   a. Operating System Upgrade
   b. Office Professional
   c. Core CAL
   d. Provides product upgrades and updates to the above products for three-year term of enrollment.

3. Enhanced Configuration with SQL:
   a. Operating System Upgrade
   b. Office Professional
   c. Core CAL and SQL Cal
   d. Provides product upgrades and updates to the above products for three-year term of enrollment.

The Desktop Product Configurations listed above are considered enterprise products. Each agency may have its own enrollment with the contractor that reflects their own product mix, term of enrollment, and payment terms specific to each individual agency, component, commission, etc. that is supported by the DoD ESI Working Group. Individual enrollments may include other Microsoft products in addition to the desktop configurations. These additional products are available under the annual payment option only if the customer enrollment includes a desktop configuration. The program terms and conditions specified herein will apply to additional products meeting these criteria.

ENROLLMENT PERIOD:

This volume discount offering is available to the DoD ESI member agencies between 6/27/2003 and 6/26/2004. This is the Open Enrollment Period for the BPA. DoD ESI member agencies may enroll new and renewal desktop configurations during this period.

ENROLLMENT ELIGIBILITY:

1. New Desktops (License and Software Assurance): Customers are eligible to purchase new desktop configurations prior to 6/27/2004 at the stated BPA prices. In order to qualify for this enrollment, the desktops must:

   a. Be supported by the DoD ESI Working Group as defined in the BPA Paragraph B.2, Authorized Users, and

   b. Have one of the following existing operating systems: Windows 95, Windows 98, Windows NT Workstation, Windows 2000 Professional or Windows XP.

2. Renewal Desktops (Software Assurance): Customers are eligible to purchase renewal desktop configurations prior to 6/27/2004 at the stated BPA prices. Software Assurance may be ordered for the product configurations without the need to simultaneously order a License under the conditions specified below. The renewal enrollment **must become effective no later than the day following the date of expiration** of the existing Software Assurance. In order to qualify for this enrollment, the desktops must:

   a. Be supported by the DoD ESI Working Group as defined in the BPA Paragraph B.2, Authorized Users, and

   b. Be properly licensed (existing perpetual license) for all components of the applicable product configuration. If applicable, all payment obligations under an Enterprise Agreement enrollment must have been met, and

   c. Be currently enrolled in Software Assurance for all components of the applicable product configuration. **IMPORTANT NOTE**: In the event that the expiring Software Assurance coverage was not purchased from another Enterprise Agreement, a **Proof of Eligibility must be provided to the contractor**. The Proof of Eligibility is a written notice from the Contracting Officer that states that "*NAME OF AGENCY, AND ANY NAMED AFFILIATES* (enrollee) is properly licensed for all of the components of the desktop configuration and is eligible to enroll under the applicable product configuration renewal item."

HOW TO ENROLL:

In order to participate in this program, each agency must submit a properly executed purchase/delivery order for the first annual payment and the required enrollment information.

TERMINATION PROVISIONS:

Terminations are applicable to specific enrollments and do not affect any enrollment not otherwise terminated. Any terms of this agreement applicable to any enrollment not otherwise terminated will continue in effect with respect to that enrollment.

Termination of an enrollment.

The word "termination" as used in these "TERMINATION PROVISIONS" includes all situations where the Government elects to not make an installment payment. The government may terminate an enrollment for convenience. Either party to an enrollment may terminate if the other party materially breaches its obligations under this agreement, including any obligation to submit orders or pay amounts owed (even if such non payment is caused by non-appropriation of funds to an enrolled affiliate). For terminations that are due to a material breach, the terminating party must give the other party 30 days notice and opportunity to cure except where the breach is by its nature not curable within 30 days. If an enrolled affiliate ceases to be an affiliate of the agency, the agency must promptly notify the contractor of this fact, and the enrollment may be terminated.

Effect of termination or expiration.

If the termination is for a desktop enrollment, the government agency may immediately pay the total remaining amount due, plus all installments that have not been paid, in which case the enrolled affiliate will have perpetual licenses for all copies of the products that were ordered for it. As an alternative, the government agency may pay only amounts due and payable as of the termination date, in which case the enrolled affiliate will have perpetual licenses for (i) all copies of all products for which payment has been made in full, and (ii) the number of copies of products for which payment has been made in installments that is proportional to the amount that was paid as of the termination date. No termination charges shall apply and no additional payments beyond the termination date are required.

If the enrollment being terminated is for renewal of Software Assurance, the effect of termination is that said Software Assurance coverage will cease on the anniversary date of the enrollment, when payment for the first or second option year (i.e., installment year) would otherwise have been due. No termination charges apply and payment for Software Assurance coverage beyond the termination date is not required. The enrolled affiliate will retain 100% of the licenses that existed at the inception of the agreement. In addition, the customer receives the right, for products covered in the renewal enrollment, to deploy any and all upgrades that became commercially available during the coverage term for which payment was made in full.

ADDITIONAL LICENSE TERMS:

The following additional license terms apply to all desktop configurations and additional products purchased as part of a desktop enrollment.

Transfer Rights. The Microsoft License/Product Use Rights grants the right of license transfer to another agency of the U.S. Government if the enrollee is an agency of the U.S. Government. The Transfer rights of the PUR are clarified to include the right to transfer among DoD Agencies as well as DoD components within Agencies.

License copies for training, evaluation, research and development (including Research Labs) and back-up. During the term of the enrollment, each enrolled affiliate and any agency affiliate included in its enterprise may (i) run up to 20 complimentary copies of any additional product in a dedicated training facility on their premises; (ii) run up to 10 complimentary copies of any product that we make available to license as an additional product for a 60 day evaluation period; (iii) run complimentary copies of enterprise products and additional products on 1% of the enrolled affiliates qualified desktops for research and development purposes; and (iv) make and retain one complimentary copy of any licensed product for back-up or archival purposes for each of their distinct geographic locations.

Temporary Use of Software During Times of Conflict. During Temporary Expeditionary Deployments ("TEDs"), an enrolled affiliate during the term of this agreement may temporarily deploy and install or use on, or access from qualified desktops or servers, the, Standard Desktop Configuration, Enhanced Desktop Configuration, or Enhanced with SQL Desktop Configuration and the additional products, all described in Attachment A (the "Software") on an unlimited number of qualified desktops or servers being used as part of the TEDs ("Temporary Use"). For purposes of this subsection, the term "Temporary Expeditionary Deployments" or "TEDs" shall refer to any number of software licensed products enrolled under this agreement which may be used at no additional cost by the DoD enrolled affiliate. The coverage will extend to deployments away from in-garrison locations (any military post or government office where troops or civilian government personnel are at a permanent location), deployment locations in support of war games, exercises, real world contingencies, and emergency situations similar to the terrorist attacks on 9/11/01 where temporary duty stations were needed due to the destruction of government offices. Each enrolled affiliate will make a record of the count of each category of license used while deployed and the period of use. After the TED and upon request, the count and duration information, but not the deployed location information, will be provided to the contractor for auditing purposes. Such Temporary Use of the software is limited to a period equal to the length of the TED or six (6) calendar months, whichever is shorter ("Temporary Use Period"), unless a different time period is agreed to in writing by the contractor. At the end of the six month period or as mutually agreed to, the DoD enrolled affiliate will provide a written certification that the licenses have either been destroyed or payment has been made under this agreement. The enrolled affiliate agrees to use the products in accordance with the terms contained in this Agreement and the applicable version of the License Agreement - Product Use Rights. If the DoD enrolled affiliate requires use of the Software beyond the Temporary Use Period and Microsoft has not approved such extended use, the enrolled affiliate shall purchase the products in accordance with the pricing terms of this Enterprise Agreement.

GFE Non-Portable Computer Use Rights. DoD has adopted a Teleworking Policy which implements the requirements of Section 359 of Public Law No. 106-346 (reference A), which requires each Executive Agency to establish a policy under which eligible employees of the agency may participate in teleworking to the maximum extent possible without diminished employee performance. Enrolled affiliate shall have the right to grant to those persons participating under the DoD Teleworking Policy and who have been issued a Government Furnished Equipment (GFE) non-portable desktop in lieu of portable computer, the portable use rights under the applicable License Agreement – Product Use Rights. The portable use rights will apply to such GFE desktop or to a portable computer but not both.

Copies necessary for internal deployment. Each enrolled affiliate may make as many copies of the products licensed under the enrollment as necessary to distribute the products to the users within its enterprise. All copies of any product must be true and complete copies

(including copyright and trademark notices) and be made from CD–ROMs, disk sets or a network source, acquired from or made available by a Microsoft approved fulfillment source for that product. Each enrolled affiliate may also have a third party make and distribute copies in its place, but the enrolled affiliate is responsible for third-party actions to the same extent it would be if the third party were its employee. Enrolled affiliates must make reasonable efforts to make employees, agents and other individuals running a product aware that the product is licensed from Microsoft and may only be run or transferred subject to the terms of this agreement and the License Agreement/Product Use Rights.

Re-imaging rights. If an enrolled affiliate or any affiliate included within its enterprise has licensed products from an original equipment manufacturer (OEM), through a retail source or under any Microsoft program other than this Enterprise Agreement program, it may use copies made from the media provided under this Enterprise Agreement enrollment in place of any copies made from the media provided through that separate source, so long as it complies with the following restrictions.

(i) The enrolled affiliate must have obtained a separate license from the separate source for each copy being replaced.

(ii) The product, language, version and all components (in the case of product suites, such as Office) of the copies made from the media provided under an enrollment must be identical to the product, language, version and all components of the copies they replace.

(iii) In the case of copies licensed from an original equipment manufacturer (OEM) or through a retail source, in addition to the other conditions outlined in this subsection, the product type (e.g. upgrade or full license) of the copies made from the media provided under an enrollment must be identical to the product type of the copies they replace. However, an enrolled affiliate may use copies of a desktop operating system made from the media provided under the enrollment you submit on its behalf in place of copies of the same desktop operating system obtained from a separate source, even though they may be of different types (i.e. one may be an upgrade and the other a full license), provided that the product, language and version are identical.

The use of any copies made under this subsection is subject to the terms and use rights provided with the copies being replaced, and nothing in this section creates or extends any warranty or support obligation.