

This School License Agreement ("SLA" or "Agreement") is entered into by Micro Focus Software (Ireland) Limited with offices at Corrig Court, Corrig Road, Sandyford Business Park, Dublin 18, Ireland ("Micro Focus"), and the customer identified below ("Customer").

Customer Legal Name:	
Customer Address:	
Primary Contact Name:	
Primary Contact Phone:	
Primary Contact E-mail:	

**1 Definitions.** Capitalized terms used in the SLA, are defined as follows:

1.1 Annual Period means the period beginning on the first day of the month following the Effective Date and ending one year thereafter, and each consecutive one-year period thereafter during the SLA Term.

1.2 Authorized Users means Customer's students, faculty, and administrative personnel for which the School License Fee has been paid.

1.3 Customer means an educational organization that has been approved by Micro Focus and has signed this Agreement. The Customer signing this Agreement will be responsible for the obligations of other schools or entities which participate under this Agreement.

1.4 Effective Date means the later of the dates this Agreement is executed by Customer and Micro Focus.

1.5 Enrollment means students currently enrolled in Customer (whether full or part-time).

1.6 Internal Use means use by Authorized Users, consultants and contractors for Customer's internal operations.

1.7 Master Software means master media available from Micro Focus from which Customer may make copies to install the Software.

1.8 School License Fee means the license fee set forth in the SLA Annual Fee Worksheet that Customer must pay annually to be licensed under this SLA to use the Software.

1.9 Software means the Micro Focus software licensed under this SLA as identified on the SLA Annual Fee Worksheet.

1.10 Update means a fix or compilation of fixes released by Micro Focus to correct operation defects (program bugs) in the Software.

1.11 Upgrade means any new version of a Software product which bears the same product name, including version changes evidenced by a number change immediately to either the right or left of the decimal (for example, Micro Focus Identity Manager 3.5 to 3.6 or GroupWise 7.0 to 8.0). If a question arises as to whether a product offering is an Upgrade or a new product, Micro Focus's opinion will prevail, provided that Micro Focus treats the product offering the same for its end user customers generally.

1.12 Workstation means (a) a computer that is owned or leased and operated by Customer, and (b) any other personal computer that is allowed to connect to Customer's network. In calculating the total number of Workstations in part (b) above, Customer may choose to count instead the maximum number of connections available to Authorized Users to connect to Customer's network using computers or workstations not owned or leased by Customer.

**2 Licenses.** Subject to the Agreement provisions, Micro Focus grants and Customer accepts a non-exclusive, non-perpetual, non-transferable license to use the Software identified on the SLA Annual Fee Worksheet, for Internal Use by Authorized Users on Customer's Workstations. Software delivered under the SLA to Customer that includes non-Micro Focus products, evaluation products, or products requiring key activation, may require additional purchase if Customer chooses to be licensed to use such products.

2.1 Limited Warranty. The Software is subject to the license terms and restrictions set forth in the applicable End User License Agreement ("EULA") that accompanies a Software product. Each EULA for a product licensed under this SLA is incorporated into this Agreement. If there is any conflict between the terms of the EULA and this Agreement, the Agreement terms shall govern. For 90 days from Customer's date of purchase, Micro Focus warrants that (1) any media on which the Software is delivered is free from physical defects; and (2) the Software will substantially conform to the applicable Software documentation. If the defective items are returned to Micro Focus or if Customer reports the nonconformity to Micro Focus within 90 days from the date of purchase, Micro Focus will at its sole discretion either resolve the nonconformity or refund the School License Fee Customer paid for the Software in question. Any unauthorized use or modification to the Software voids this warranty. The foregoing warranty does not apply to Software provided free of charge. SUCH SOFTWARE IS PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND.

2.2 Non-Micro Focus Products. The Software may include or be bundled with hardware or other software programs licensed or sold by a licensor other than Micro Focus. MICRO FOCUS DOES NOT WARRANT NON-MICRO FOCUS PRODUCTS. ANY SUCH PRODUCTS ARE PROVIDED ON AN "AS IS" BASIS. ANY WARRANTY SERVICE FOR NON-MICRO FOCUS PRODUCTS IS PROVIDED BY THE PRODUCT LICENSOR IN ACCORDANCE WITH THE APPLICABLE LICENSOR WARRANTY.

2.3 DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY SUBSECTION AND AS OTHERWISE RESTRICTED BY LAW,

MICRO FOCUS DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES INCLUDING ANY WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. MICRO FOCUS MAKES NO WARRANTY, REPRESENTATION OR PROMISE NOT EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY. MICRO FOCUS DOES NOT WARRANT THAT THE SOFTWARE OR SERVICES WILL BE WITHOUT DEFECT OR ERROR, SATISFY CUSTOMER REQUIREMENTS, OR PROVIDE UNINTERRUPTED USE OF THE SOFTWARE.

**3 Program Changes.** The SLA Program Guide is available at <http://www.microfocus.com/licensing> and forms an integral part of this Agreement. To the extent of any conflict between the terms of this Agreement and the SLA Program Guide, the terms of this Agreement will prevail. Any changes will apply only to purchases made after the effective date of the changes. If any material change to the SLA Program has an adverse effect on Customer's participation in it, Customer will be entitled to terminate the Agreement by giving written notice to Micro Focus within 30 days after receiving notice from Micro Focus of such a change.

#### **4 Master Software and Documentation.**

**4.1 Master Software.** Micro Focus will make available Master Software for the Software ordered from the SLA Annual Fee Worksheet. Documentation for Software may be made available in electronic format on Micro Focus's web site and/or provided with the Software.

**4.2 Delivery.** For delivery from the U.S. to destinations within the U.S.A., delivery terms are FOB Micro Focus's Dock (INCOTERMS 2000). Micro Focus will ship ground only and prepay freight from Micro Focus's Dock to Customer's forwarder or named destination. All other freight arrangements will be billed to Customer. For delivery from the U.S. to destinations outside the U.S.A., delivery terms are DAT-POE (Delivered at Terminal— Port of Entry) as defined in INCOTERMS 2010. Micro Focus will select a carrier and will prepay shipping and handling charges. Customer will be responsible for all applicable import duties and value added tax, goods and services tax, or other similar taxes and fees. For delivery within Europe, the Middle-East and Africa ("EMEA"), delivery terms will be Carriage Paid To (C.P.T.) Destination, as defined in INCOTERMS 2010. Micro Focus will select a carrier, prepay the freight and invoice Customer for freight and any handling costs. Destinations for E.U. countries will be Customer's nominated delivery point; for non-E.U. countries, destination will be the point of import. The term C.P.T. does not include the payment by Micro Focus of taxes or any applicable import duties.

**4.2.1 Electronic Delivery.** For Software delivered by Micro Focus hereunder by electronic means directly to Customer outside the USA, Customer's license to use the Software shall arise at the location of the computer on which the Software is first used by Customer, and delivery of the Software so supplied shall be deemed to occur where download is completed successfully at the destination computer. For deliveries within EMEA (i.e. originating in Ireland), the Software shall be considered delivered using the Incoterm (2010) C.P.T. (Carriage Paid To) Destination.

**4.3 Title & Risk of Loss.** For shipment within the United States, title to any deliverables, exclusive of Micro Focus's rights to intellectual property, and risk of loss will pass to Customer upon delivery to Customer's carrier. For shipments from the U.S. to outside the U.S., title to and risk of loss will remain with Micro Focus until the shipment arrives at the

importing country's entry port (or at a bonded warehouse within Canada or Mexico if Customer so requests shipment). For shipments originating in Ireland, title to and risk of loss passes to Customer at the Irish shipment point. Notwithstanding the above provisions, no title to any master media is transferred to Customer.

**4.4 Duplication.** All copies of Software must be made from the Master Software and must reproduce any serial numbers and all proprietary rights notices.

**5 Upgrades and Technical Support.** If Micro Focus commercially releases any Upgrades and/or Updates during the period covered by Customer's School License Fee, Micro Focus will make such Upgrades and/or Updates available to Customer within a reasonable period of time after they become commercially available. No technical support is included in the SLA. Technical support may be purchased under a separate contract.

#### **6 Placing Orders and Payment Terms.**

**6.1 SLA License Fee.** Customer must submit a completed SLA Annual Fee Worksheet and/or a proper purchase order to Micro Focus or an authorized Micro Focus academic fulfillment agent for their School License Fee at least 15 days prior to the expiration date of Customer's then-current SLA Annual Period ("Order Due Date"). Orders submitted after the Order Due Date will incur a late order fee equal to 10% of the School License Fee. The late order fee is in addition to annual School License Fees, late payment interest, and other obligations that may be due and payable. To participate in the SLA program, Customer's School License Fee, as calculated per the SLA Annual Fee Worksheet, must be a minimum of USD \$1,000. The non-refundable School License Fee will be due and payable in USD within 30 days from the date of invoice. However, for orders requesting shipment and billing to a country whose currency is required by the applicable Micro Focus price list, the purchase orders must be issued, and the fees paid in the required currency. Orders issued in response to quotes must correspond to the currency in which the quote was made.

**6.2 Price and Product Changes.** Micro Focus may revise the SLA Annual Fee Worksheet at any time to (a) change the prices for Software licenses or other deliverables, or (b) add or delete available products or other offerings. Separate from Customer's School License Fee purchases, Customer may purchase Micro Focus licenses available under Micro Focus's Volume License Agreement Program ("VLA"). VLA terms and conditions shall apply to such purchases.

**6.3 Taxes.** Prices are exclusive of all applicable taxes. Customer agrees to pay and bear the liability for all applicable taxes associated with this Agreement or any Schedule thereto, including but not limited to sales, use, excise, added value and similar taxes and all customs, duties or governmental impositions, but excluding taxes on Micro Focus's net income, such as a withholding tax required under local law. Customer agrees to provide Micro Focus with the original receipt documenting any withholding tax levied. Any tax or duty Micro Focus may be required to collect or pay upon the delivery or distribution of the Micro Focus Software will be paid by Customer, and such sums shall be due and payable to Micro Focus upon delivery. If Customer claims a tax exemption, Customer must provide Micro Focus with valid tax exemption certificates in advance of any remittance otherwise required to be made by Micro Focus on behalf of, or for the account of, Customer. Certificates should be mailed, e-mailed, or faxed to the following:

Micro Focus Software (Ireland) Limited  
Attn. Tax Department  
Corrig Court, Corrig Road  
Sandyford Business Park  
Dublin 18  
Fax: +353 1 6058070  
Email: tax@novell.com

6.4 Late Payments. Payments made later than the due date will accrue interest from the date due to the date paid at the lesser of the rate of 12% per year or the highest rate allowed by applicable law. Customer will pay reasonable costs and attorney's fees if Micro Focus is required to undertake collection measures against Customer.

## 7 Term and Termination.

7.1 Term. This Agreement will begin on the Effective Date and will remain in effect for three years after the first day of the month following the Effective Date ("Term"). This Agreement will be automatically renewed for additional three-year terms until either party gives written notice at least 30 days prior to the end of the Term.

7.2 Termination for Cause. Either party may terminate this Agreement upon written notice for the breach by the other party of any material term, if such breach is not cured within 30 days following receipt of written notice of breach from the non-breaching party. If Customer terminates this Agreement for cause, Micro Focus will refund Customer any prorated portion of the School License Fees paid for the period beyond termination.

7.3 Effect of Termination. Upon SLA termination, all licenses and rights granted under the SLA will immediately terminate, and Customer shall destroy all Master Software and remove all Software copies. Within 30 days after termination Customer shall certify in writing that all copies of Software for which no continuing licenses have been separately purchased have been removed and that all fees due have been paid. The terms of the applicable EULAs shall govern Customer's use of any continuing licenses that Customer purchases.

8 **Formal Audits.** Customer will keep complete and accurate records of all Software use. Micro Focus may at its expense and upon no less than 5 working days written notice audit Customer installation, use, or access of the Software and related records and SLA payments. As part of such audit, Micro Focus is entitled to obtain physical and electronic data concerning all Software installation, use, or access at each of Customer's offices, regardless of their location. At Micro Focus's option, the audit may be conducted either by Micro Focus or by its authorized representative, and will not interfere unreasonably with Customer business activities. An audit will be conducted no more often than once per calendar year at a location, unless a previous audit disclosed a material discrepancy. If an audit shows Customer to have underpaid fees, Customer must promptly purchase from Micro Focus at list price sufficient licenses and Maintenance to support the actual deployment, including Maintenance to support the shortfall. If an audit shows Customer has underpaid amounts owing by more than 5%, Customer will also within 30 days pay the reasonable expenses of the audit.

## 9 LIABILITY LIMITATIONS.

9.1 Indirect Damages. TO THE EXTENT ALLOWED BY APPLICABLE LAW, NEITHER MICRO FOCUS NOR CUSTOMER

9.2 WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHETHER UNDER CONTRACT OR IN TORT (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR INTERRUPTION OF BUSINESS, LOSS OF BUSINESS, LOSS OF PROFITS AND LOSS OF USE OF DATA) RELATED TO OR ARISING OUT OF THIS AGREEMENT, EVEN IF THE BREACHING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION DOES NOT APPLY TO VIOLATIONS BY EITHER PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

9.2 Direct Damages. Micro Focus's liability for damages of any type arising out of or related to this Agreement shall be limited to the greater of 1.25 times the actual amounts paid by Customer for the licenses, service, or deliverable in question, or Euro €10,000. This subsection does not apply to any damages for personal injury or tangible property caused by the negligence or willful default of Micro Focus.

## 10 General Terms.

10.1 Notices. Notices to a party must be in writing and sent to the party's address provided above or such other address as a party may provide in writing. Notices may be delivered in a format reasonably chosen by the notifying party.

10.2 Confidentiality Obligations. The receiving party of Confidential Information will exercise reasonable care to protect any Confidential Information from unauthorized disclosure or use. The receiving party may disclose Confidential Information only to its employees or agents with a need to know such information and will inform such employees and agents by way of policy or agreement that they are bound by confidentiality obligations. "Confidential Information" means the terms of this Agreement and any other information that (i) if disclosed in tangible form, is marked in writing as confidential, or (ii) if disclosed orally or visually, is designated orally at the time of disclosure as "confidential." Confidential Information will not include information (a) already in the receiving party's possession without obligation of confidence; or (b) independently developed by the receiving party; or (c) that becomes available to the general public without breach of this Agreement; or (d) rightfully received by the receiving party from a third party without obligation of confidence; or (e) released for disclosure by the disclosing party with its written consent; or (f) required to be disclosed by law, regulation, or court order. These confidentiality obligations will survive 3 years after expiration or termination of this Agreement. Micro Focus retains the right to use its knowledge and experience (including processes, ideas, and techniques) learned or developed in the course of providing any services to Customer.

10.3 Law. Each party will, at its own expense, comply with any applicable law, statute, administrative order, or regulation. This Agreement will be governed by the substantive laws of the State of Utah, unless the laws of the state, province, or country of Customer's domicile require otherwise, in which case the laws so required will govern. However, if Customer's principal residence is in (a) a member state of the European Union or (b) a member state of the European Free Trade Association (c) the Republic of South Africa, or (d) Canada, the governing law is that of the country of Customer's principal residence (and for Canadian customers, the law of the Province of Ontario). If Customer's principal residence is in any other country in

Europe the applicable law will be the law of the Federal Republic of German. If Customer's principal residence is in the Middle-East or Africa (except South Africa), the applicable law will be the law of England. If a party initiates legal proceedings related to this Agreement, the prevailing party will be entitled to recover reasonable attorney's fees.

**10.4 Assignment.** This Agreement and any rights or obligations under it may not be transferred, assigned, or sublicensed without the prior written approval of Micro Focus. Any such attempted action, by operation of law or otherwise, will be invalid.

**10.5 Severability / Waiver.** If a provision is held invalid or unenforceable, the provision will be severed to the extent of such invalidity, or unenforceability, and shall not affect or impair the remaining provisions hereof. No waiver of any contractual right shall be effective unless made in writing signed by an authorized representative of the waiving party.

**10.6 Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the parties as to its subject matter. This Agreement supersedes all prior and contemporaneous agreements, proposals and statements on this subject matter. Except as may be expressly provided for in this Agreement, including Micro Focus's right to revise SLA prices, this Agreement may only be modified in a writing signed by authorized representatives of each party. Purchase order terms will not modify this Agreement unless the parties agree otherwise in writing.

**10.7 Export Compliance.** Any products or technical information provided under this Agreement may be subject to U.S. export controls and the trade laws of other countries. The parties agree to comply with all export control regulations and to obtain any required licenses or item classification to export, re-export or import deliverables. The parties agree not to export or re-export to entities on the current U.S. export exclusion lists or to any embargoed or terrorist supporting countries as specified in the Export Administration Regulations (EAR). The parties will not use deliverables for prohibited nuclear, missile, or chemical biological weaponry end uses as specified in the EAR. Please consult the Bureau of Industry and Security web page: [www.bis.doc.gov](http://www.bis.doc.gov) before exporting or re-exporting items subject to the EAR. Refer to: [www.novell.com/info/exports/](http://www.novell.com/info/exports/) for more information on exporting Software. Upon request, Micro Focus can provide information regarding applicable export restrictions. However, Micro Focus assumes no responsibility for Customer's failure to obtain any necessary export approvals.

**10.8 Force Majeure.** Neither party will be liable for delay nor failure to perform that arises out of causes beyond the reasonable control and without the fault or negligence of such party. A party will give prompt notice of any condition likely to cause any delay or default.

**10.9 Survival.** The provisions of this Agreement which by their nature extend beyond termination of the Agreement, including section 2 (Licenses), 8 (Formal Audits), 9 (Liability Limitations) and 10 (General Terms), will survive termination of the Agreement.

**10.10 Intellectual Property Rights/Remedies.** Nothing in this Agreement waives or limits extra-contractual rights or remedies available to Micro Focus to protect its rights in the Software, including those available under U.S. copyright law, international treaties, or national copyright and intellectual property laws of the countries in which Customer may use the Software.

Each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed its duly authorized representative.

**MICRO FOCUS SOFTWARE (IRELAND) LIMITED**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CUSTOMER**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Districts that sign the Agreement must provide the following information for each school that participates in the SLA.

District Name \_\_\_\_\_

School Name \_\_\_\_\_

Enrollment \_\_\_\_\_

Contact Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

E-Mail Address \_\_\_\_\_

District Name \_\_\_\_\_

School Name \_\_\_\_\_

Enrollment \_\_\_\_\_

Contact Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

E-Mail Address \_\_\_\_\_

District Name \_\_\_\_\_

School Name \_\_\_\_\_

Enrollment \_\_\_\_\_

Contact Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

E-Mail Address \_\_\_\_\_

District Name \_\_\_\_\_

School Name \_\_\_\_\_

Enrollment \_\_\_\_\_

Contact Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

E-Mail Address \_\_\_\_\_

District Name \_\_\_\_\_

School Name \_\_\_\_\_

Enrollment \_\_\_\_\_

Contact Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

E-Mail Address \_\_\_\_\_

District Name \_\_\_\_\_

School Name \_\_\_\_\_

Enrollment \_\_\_\_\_

Contact Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

E-Mail Address \_\_\_\_\_