NOVELL CUSTOMER CONNECTIONS®
Academic License Agreement
For Use in Asia Pacific

This Academic License Agreement (ALA) is entered into by Novell, Inc., a Delaware corporation with headquarters at 1800 South Novell Place, Provo, Utah 84606, USA, ("Novell"), and the customer entity signing below ("Customer"). This ALA consists of these Terms and Conditions, the Annual Fee Worksheet and the End User License Agreements of the Software covered under this program.

Terms and Conditions

1. **Definitions.** Capitalized terms used in the ALA are defined as follows.

1.1. ALA License Fee means the license fee set forth in the attached ALA Annual Fee Worksheet that Customer must pay to be licensed under this ALA to use Software. The ALA License Fee is an annual payment that must be paid each year during the ALA term.

1.2. 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 term of the ALA.

1.3. Authorized Users means for each organisation for which the Annual License Fee has been paid, (a) students currently enrolled in Customer, and (b) Customer's faculty and administrative personnel.

1.4. Customer means an educational organization that has been approved by Novell and has signed this ALA. The Customer signing this ALA will be responsible for obligations with respect to this ALA of other schools or entities that participate in the ALA. Customer shall not be responsible for entities that execute their own separate Academic License Agreement with Novell.

1.5. Effective Date means the date on which the ALA is signed by an authorized Novell representative, which will follow Customer's signing.

1.6. Internal Use means use by (a) Authorized Users for Customer's internal operations, and (b) while performing work for Customer on Customer's premises, Customer's consultants and contractors.

1.7. Master Software means master media from which Customer may install Software.

1.8. Software means (collectively or individually, as the context requires) the Novell software licensed under this ALA.

1.9. 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, GroupWise 5.1 to 5.2 or GroupWise 4.0 to 5.0). If a question arises as to whether a product offering is an Upgrade or a new product, Novell's opinion will prevail, provided Novell treats the product offering the same for its end user customers generally.

1.10. Workstation means (a) a personal computer or workstation, whether attached to a network or otherwise, that is owned or leased and operated by Customer at Customer's location, and (b) any other personal computer or workstation 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 provisions of this ALA, for the term of the ALA only, and conditional upon Customer paying the applicable annual ALA License Fee, Novell grants and Customer accepts a non-exclusive, non-transferable license to copy and distribute the software identified on the ALA Annual Fee Worksheet for Internal Use by Authorized Users on Customer's Workstations. Only Authorized Users may copy and/or use the software.

2.1. Department Workstation: Despite any provision in the ALA to the contrary, if Customer purchases the ALA for less than and entire organization, such purchase must be made using Department Workstation pricing, and only Authorized Users within the department or organizational unit for which the Workstation price was paid are licensed to use the Software.

2.2. Limited Warranty and Additional Terms. The Academic License is subject to the license terms and restrictions set forth in the applicable License Terms document that accompany a Software product. This License Terms document describes the limited warranty and warranty disclaimers for ALA Software, and is incorporated into the ALA. If there is a conflict between a provision of the License Terms document and this ALA, the ALA provisions will govern.

2.3. Removal from Price List. For any Software licensed under the ALA that Novell removes from the Novell Product Price List or Academic Price List, Customer may not make additional copies of the product after such removal occurs, unless Novell agrees in writing otherwise.

2.4. Special Products. Products delivered under the ALA to Customer that include non-Novell products, evaluation products, or products requiring key activation, may require additional purchase if Customer chooses to be licensed to use such products, and such products may not be available under this ALA on a site license basis.

2.5. Third-Party Royalties. The use and copying of some Novell software products under the ALA may require payment of royalties to third-party licensors. If such products are made available hereunder, and if Customer elects to use such products, Customer must report (in a form and manner specified by Novell) Customer's copying and use of all such products and must pay the required royalties, provided that Novell gives Customer written notice of the royalty obligation at or before the time Customer makes copies of such products under this ALA.

3. **Delivery of Software Media and Documentation.**
3.1. Software Media. Novell will provide Customer 1 set of software media for software ordered under the ALA. Novell will make available to Customer, either directly or through third parties, additional sets of software media at the prices listed in the Novell Academic Price List. Customer must keep a written record of the location of Master Software it receives under the ALA. Upon ALA termination, Customer's right to use Master Software terminates, and Customer must return all Master Software to Novell (see Section 8.4.1 below). Master Software is not available in all regions; in such regions Novell will fulfill ALA orders using other media.

3.2. Delivery. Delivery in the United States will be made F.O.B. Novell's Dock, Customer's carrier. For delivery outside the U.S., Novell will select a carrier to transport deliverables to the port of entry and will prepay and bill Customer for applicable 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, except that for shipments from Ireland to Norway or Switzerland, Novell will be so responsible. For shipments from Ireland, delivery terms are Carriage Paid To (CPT) destination, as defined in INCOTERMS 1990.

3.3. Title & Risk of Loss. For shipment within the United States, title to any deliverables, exclusive of Novell'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 Novell 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 Master Software is transferred to Customer.

3.4. Duplication. Subject to the ALA's license restrictions, Customer may make and install Software copies from the Master Software for Internal Use (including an archival or backup copy for each Software product licensed). All copies of Software must be made from the Master Software and must reproduce any serial numbers and all proprietary rights notices. Customer may make copies of the Documentation, up to the number of licenses purchased, for use with the Software.

3.5. Customer's Responsibility. Customer agrees to track all Master Software and duplicated Master Software and to return or destroy all Master Software and any such copies upon termination or expiration of the ALA. Customer will not allow Master Software to be used in any instance for anything but Customer's Internal Use.

3.6. Documentation. Other than documentation in electronic or CD-ROM format, no documentation will be provided to Customer as part of the annual fee. Customer may copy the Documentation from the on-line screen for use with the Software.

4. **Upgrade Protection**. For any Software covered by Customer's payment of the ALA annual fee, Novell will make available any Upgrades released during the ALA within a reasonable period of time after they become commercially available. Upgrades to non-Novell products delivered with ALA software may not be available from Novell. Nothing in this ALA will be construed to warrant or imply that any Upgrades will be produced for any product.

5. **Technical Services.** No technical services are included in the ALA. Technical Services may be purchased through Novell or a Novell-approved third party provider under separate contract. Customer should contact a third party or refer to the Novell Internet web site for information concerning technical support programs or other a la carte support options.

6. **Placing Orders and Payment Terms.**
6.1. Annual License Fee. Customer may obtain Software by submitting to Novell a completed and signed ALA Annual Fee Worksheet with a Customer purchase order for the amount of the annual fee. The total, non-refundable annual license fee will be payable in a lump sum net 30 days from the date of invoice. Customer must select either Pricing by Workstation or Pricing by FTE at the time of ordering and that selection will apply during the term of the ALA.

6.1.1. Within at least 15 days prior to the end of each Annual Period, Customer will submit to Novell a new ALA Annual Fee Worksheet certifying either (a) the total number of Customer workstations or (b) the total number of Customer Full-Time Equivalent (FTE) faculty, staff and students. Customer will submit the applicable annual ALA License Fee with the ALA Annual Fee Worksheet.

6.2. Minimum Order. The minimum Annual License Fee is $5,000.

6.3. Price and Product Changes. Novell may revise the ALA prices at any time to (a) change the prices for Software licenses or other deliverables, or (b) add or delete available products or other offerings. Any price increase made to a Software product license that Customer has previously purchased under the ALA will only apply to subsequent license purchases. If the ALA prices change less than 120 days prior to the end of a contract term, Customer may choose to terminate the ALA by giving written notice to Novell within 30 days of Novell providing Customer with the price change notification.

6.3.1. Separate from Customer's Academic License Fee purchases, Customer may purchase standard Novell licenses available on the Academic Price List at the published educational discount. The ALA's Upgrade Protection and Ownership Registration provisions will not apply to such purchases.

6.4. Taxes. Fees are exclusive of all applicable taxes. Customer agrees to pay and bear the liability for any taxes associated with the delivery of the Software, including but not limited to sales, use, excise, and added value taxes but excluding: (a) taxes based upon Novell's net income, capital, or gross receipts, or (b) any withholding taxes imposed if it is allowed as a credit against U.S. income taxes

of Novell such as a withholding tax on a royalty payment made by Customer where such withholding is required by law. If Customer is required to withhold taxes, Customer will furnish Novell all required receipts and documentation substantiating such payment. If Novell is required by law to remit any tax or duty on behalf, or for the account, of Customer upon the delivery of Software, Customer will reimburse Novell within 30 days after Novell notifies Customer in writing of such remittance. *Customer will provide Novell with valid tax exemption certificates in advance of any remittance otherwise required to be made by Novell on behalf of, or for the account of, Customer where such certificates are applicable.*

6.5. Late Payments. Payments made later than the invoice 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 Novell is required to undertake collection measures against Customer.

6.6. Payments. All fees are owed in U.S. dollars. Customer may make payments under this ALA to a Novell-nominated Fulfillment Agent in **local currency** at a then current exchange rate (inclusive of any costs of forward cover) to be determined by the distributor or Fulfillment Agent. If the Fulfillment Agent were no longer to accept payment from Customer in **local currency**, then all payments will revert to U.S. dollars. All fees are due net 30 days from the date of invoice.

7. **Fulfillment Agent.** Customer and Novell must designate a Fulfillment Agent by completing and signing the Fulfillment Agent Addendum attached to this Agreement. The respective obligations of the Customer, Novell and the Fulfillment Agent are contained in the terms and conditions of that Addendum.

8. **Term and Termination.**
8.1. Term. The term of this ALA will begin on the Effective Date and will remain in effect for a period of three years after the first day of the month following the Effective Date. The ALA will be automatically renewed for one year periods until either party gives written notice at least ninety (90) days prior to the end of the ALA term.

8.2. Termination for Cause. Either party may terminate the ALA upon written notice for the substantial 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 the ALA for cause, Novell will refund Customer a prorated portion of the annual fees paid for the period beyond termination.

8.3. Termination for Convenience. Either party may terminate the ALA solely for convenience at the end of any Annual Period by giving the other party written notice at least 90 days prior to the end of the Annual Period. If Novell terminates for convenience, Novell will refund Customer, prorated on a monthly basis, any ALA License Fees paid for the period after the date of termination.

8.4. Effect of Termination. Upon expiration or termination of the ALA for any reason, Customer's right to duplicate the Software and to acquire new licenses or receive Upgrades and Updates through ALA Upgrade Protection will immediately terminate. Except as may be explicitly provided for in the ALA, License and Upgrade Protection Fees paid by Customer are non-cancelable and non-refundable.

8.4.1. Transition from ALA. Upon termination or expiration of the ALA, all rights granted under the ALA will immediately terminate and Customer shall return all software media to Novell and remove all software copies made hereunder. Licenses purchased other than through the ALA License Fee or acquired pursuant to Section 8.5, Ownership Registration, will remain the property of Customer and will survive termination or expiration of the ALA. Within 30 days after termination or expiration hereof: (a) Customer may submit an order for any licenses available under Section 8.5.2, and (b) Customer shall certify in writing that all copies of Software for which no continuing licenses have been purchased have been removed and that all fees due have been paid.

8.4.2. Survival of Terms. For any licenses Customer uses after expiration of the ALA under the previous

Transition from ALA section, the General Terms provision below and the terms of the applicable End User License Agreements govern Customer's use of the Software.

8.5. Ownership Registration:
8.5.1. <u>Installed Base Upgrade</u>. Upon execution of the ALA, Customer may list on the Installed Base Upgrade Form software licenses owned by Customer prior to ALA execution and which have the same product name as the licenses Customer requests on the ALA Annual Fee Worksheet. Proof of ownership of such licenses may be required. For any products so listed, at the beginning of each Annual Period (up to three Annual Periods), upon payment of the Annual ALA License Fee, Customer shall be licensed to any Upgrades to such licenses for one-third of the software licenses listed under the Upgrade Protection terms of the ALA (for example, upon payment at the beginning of a second Annual Period, Customer would be licensed to Upgrades to two-thirds of the Installed Base software licenses). Customer's rights to use these licenses will continue upon contract termination or expiration.

8.5.2. <u>New Licenses</u>. During the ALA term, upon payment of the annual ALA License Fees, Customer will receive perpetual license rights for new licenses installed under the ALA equal in value to 30% of the paid annual ALA License Fees. Pricing for such licenses shall be determined from the then current Novell Academic Price List.

9. <u>Formal Audits.</u> During the ALA term and for 2 years after its termination, Customer will maintain complete records showing (a) amounts due and paid, (b) copying and use of the Software, and (c) the total number of workstations, computers or other devices connected to a network which uses Novell's Software. During this time period Novell will have the right, at its expense and upon no less than 3 working days prior written notice, to audit Customer's use of the Software and records related to this use and ALA payments. Such audit may be conducted by Novell or its authorized representative, will not interfere unreasonably with Customer's business activities, and will be conducted no more often than once per calendar year, unless a previous audit disclosed a material discrepancy. If such audit shows Customer understated actual use of the Software or otherwise underpaid amounts owing, Customer will immediately pay all amounts owing. If an audit shows Customer understated use of the Software or underpaid amounts owing by more than 5%, Customer will pay the reasonable expenses of the audit. Novell will use information received during an audit solely for the purposes of this ALA and will otherwise maintain the confidentiality of such information.

10. **Limitation of Liability**. TO THE EXTENT ALLOWED BY APPLICABLE LAW, NOVELL WILL NOT BE LIABLE TO CUSTOMER FOR INDIRECT, SPECIAL, RELIANCE, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGE OR ANY KIND (INCLUDING LOSS OF PROFITS, BUSINESS, OR DATA) CONTRACT, TORT OR OTHER ACTION FOR OR ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, DELAY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

10.1. TO THE EXTENT ALLOWED BY APPLICABLE LAW, NOVELL'S LIABILITY TO A CUSTOMER FOR ANY CAUSE OF ACTION ARISING UNDER THIS ALA WILL NOT EXCEED THE AMOUNT OF FEES PAID BY THAT CUSTOMER UNDER THIS ALA.

10.2. WHERE IN ACCORDANCE WITH SECTION 11.3 THIS ALA IS GOVERNED BY THE LAWS OF A STATE OF AUSTRALIA, THEN THIS SECTION 10.2 APPLIES.

<u>Trade Practices Act</u>. WHERE ANY LEGISLATION, SUCH AS THE *TRADE PRACTICES ACT*, IMPLIES INTO THIS ALA ANY CONDITION OR WARRANTY AND THAT LEGISLATION AVOIDS OR PROHIBITS PROVISIONS IN A CONTRACT EXCLUDING THE APPLICATION OF THE CONDITION OR WARRANTY, THE LIABILITY OF NOVELL FOR ANY BREACH OF THE CONDITION OR WARRANTY IS LIMITED AT THE OPTION OF NOVELL TO ANY ONE OR MORE OF THE FOLLOWING: A) IF THE BREACH RELATES TO GOODS, REPLACING THE GOODS OR THE PAYMENT OF THE COST OF ACQUIRING EQUIVALENT GOODS OR REPAIRING THE GOODS OR PAYMENT OF THE COST OF REPAIRING THE GOODS; B) IF THE BREACH RELATES TO SERVICES, THE SUPPLYING OF THE SERVICES AGAIN OR THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN. NOTHING HEREIN IS INTENDED TO RESTRICT OR EXCLUDE ANY LIABILITY OF NOVELL UNDER PART VA OF THE AUSTRALIAN *TRADE PRACTICES ACT 1974*. SECTION 10 IS SUBJECT TO THE TERMS OF THIS SECTION 10.2.

10.3 WHERE IN ACCORDANCE WITH SECTION 11.3 THIS ALA IS GOVERNED BY THE LAWS OF NEW ZEALAND, THEN THIS SECTION 10.3 APPLIES.

<u>Fair Trading Act</u>. WHERE ANY LEGISLATION, SUCH AS THE *FAIR TRADING ACT*, IMPLIES INTO THIS ALA ANY CONDITION OR WARRANTY AND THAT LEGISLATION AVOIDS OR PROHIBITS PROVISIONS IN A CONTRACT EXCLUDING THE APPLICATION OF THE CONDITION OR WARRANTY, CUSTOMER ACKNOWLEDGES THAT, IN ENTERING INTO THIS ALA, SAVE FOR THOSE EXPRESSLY STATED HEREIN, IT HAS NOT RELIED ON ANY STATEMENT, OR REPRESENTATION OR INFORMATION SUPPLIED BY NOVELL. FOR AVOIDANCE OF DOUBT, NOTHING IN THIS ALA (INCLUDING SECTION 10 ABOVE) EXCLUDES ANY LIABILITY OF A PARTY UNDER, OR LIMIT OR AFFECT THE APPLICATION OF, THE *FAIR TRADING ACT*.

<u>Consumer Guarantees' Act</u>. CUSTOMER ACKNOWLEDGES THAT IT ACQUIRES THE SERVICES FOR ITS BUSINESS PURPOSES AND ACCORDINGLY THE PROVISIONS OF THE CONSUMER GUARANTEES ACT DO NOT APPLY. SECTION 10 IS SUBJECT TO THE TERMS OF THIS SECTION 10.3.

10.4 WHERE IN ACCORDANCE WITH SECTION 11.3 THIS ALA IS GOVERNED BY THE LAWS OF SINGAPORE, THEN THIS SECTION 10.4 APPLIES.

<u>Contracts (Rights of Third Parties) Act (Cap 53B)</u>. A PERSON WHO IS NOT A PARTY TO THIS ALA SHALL HAVE NO RIGHT UNDER THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT (CAP 53B) TO ENFORCE ANY OF ITS TERMS.

11. **General Terms.**
11.1.<u>Employees and Agents.</u> Customer will use reasonable efforts to inform its employees, agents, or others using the Software that it may only be used, copied or transferred subject to the ALA terms.

11.2. <u>Notices</u>. All notices to a party will be in writing and will be deemed effective upon confirmed receipt by the recipient's person identified as its primary ALA contact. Notices may be delivered by mail, fax, or courier.

11.3 <u>Jurisdiction</u>.
i. Novell Entity means the Novell subsidiary signing this ALA. Where the Novell Entity's country of principal residence is Thailand, Vietnam, the Philippines, Indonesia or Pakistan, then the ALA will be governed by the laws, excluding the private international law rules, of Singapore. All disputes arising out of or in connection with the ALA will finally be settled under the Rules of Arbitration of the Singapore International Arbitration Centre by a single arbitrator appointed in accordance with the said Rules. The language to be used in the arbitral proceedings will be English and the place of arbitration will be Singapore. The arbitral award made and granted by the arbitrator will be final, binding and incontestable and may be used as a basis for enforcement of the award in the place of residence or business of the parties.
ii. Where the Novell Entity is principally resident in China (excluding Hong Kong, S.A.R.), then the ALA will be governed by the laws of Hong Kong, SAR. All disputes arising out of or in connection with the ALA will be settled by arbitration at the Hong Kong International Arbitration Centre ("**HKIAC**") in Hong Kong under the Hong Kong Arbitration Ordinance. The arbitration will be carried out before 3 arbitrators, each of the parties will appoint one arbitrator and the third will be chosen by HKIAC in accordance with HKIAC Procedures for Arbitration. The arbitration will be conducted in the English language. Any arbitral award will be final and binding on the parties. The expense of the arbitration will be borne between the parties as determined by the arbitrators.

iii. For all other countries in Asia Pacific, the ALA will be governed by the substantive law, excluding the private international law rules, of the country of principal residence of the Novell Entity and, where applicable, the state of principal residence in the country of principal residence of the Novell Entity. An action at law hereunder may only be brought before a court of appropriate jurisdiction in the state whose law governs the ALA.

To the extent their exclusion is permissible, the terms of the United Nations Convention on the International Sale of Goods will not apply to this contract, even where they have been adopted as part of the domestic law of the country whose law governs the contract. If either party initiates legal proceedings to enforce a term of the ALA, the prevailing party will be entitled to recover reasonable attorneys' fees.

11.3. Assignment. This ALA is binding upon the parties' and their respective successors and assigns. Unless expressly permitted herein, neither party may transfer, assign, or delegate any right or obligation set forth in the ALA without the prior written consent of the other party. Neither party will unreasonably withhold consent for an assignment to the other party's subsidiary. Either party may, upon prior written notice, assign the ALA to the surviving company or other organization in the event of a merger or acquisition.

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

11.5. Modifications. Except as may be expressly provided for in the ALA, including Novell's right to revise ALA Prices, the ALA may not be modified except in writing signed by authorized representatives of each party. In particular, the terms of a purchase order will not modify the ALA unless the parties agree otherwise in writing.

11.6. Entire Agreement. The ALA is the entire agreement and understanding between the parties as to its subject matter. The ALA supersedes all other prior and contemporaneous agreements and statements on these subjects. Each party warrants that in entering into this ALA, it has not relied upon or been induced by any representation or statement not expressly set forth in this ALA.

NOVELL, INC.

Signature: _____

Print Name: _____

Title: _____

Date: _____

CUSTOMER

Signature: _____

Print Name: _____

Title: _____

Date: _____

CUSTOMER INFORMATION

Organization Name: _____

Address: _____

_____

_____

Primary Contact Name: _____

Shipping Address: _____

_____

_____

Phone #: _____ Fax #: _____

Email address: _____

Return to: **Novell Contract Management**
1800 South Novell Place
M/S PRV-D-231
Provo UT 84606 USA

INSTALLED BASE UPGRADE FORM

USE SAME FORMAT AND ATTACH ADDITIONAL SHEETS TO ADD ADDITIONAL SITES COVERED

Site Name_____

Address_____

City_____ State_____ ZIP_____

Total Enrollment (FTE)_____ Total Employees (FTE)_____

EXISTING LICENSE CERTIFICATION

Product Description	Platform	Version	Quantity
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

By signing below, Customer or Customer Organization certifies that as of the date herein, the information contained herein (or attached) is complete and accurate to the best of its knowledge.

Customer/Customer Organization Name: _____

By: _____

Name: _____

Title: _____

Date: _____

Academic License Agreement ("ALA") Fulfillment Agent Addendum

For use in Asia Pacific

Upon its execution below, this ALA Fulfillment Agent Addendum will become legally binding upon Customer, the Fulfillment Agent identified below ("Fulfillment Agent"), and Novell, each of whom accept the terms of this Addendum and the Academic License Agreement ("ALA") of which this Addendum is made a part. *By signing below, Customer agrees to provide Fulfillment Agent a copy of the ALA, and Fulfillment Agent agrees to be bound by the terms of the ALA.*

1. **Definitions**. Terms with the initial letter capitalized will have the same meaning as defined in the ALA, unless otherwise defined in this Addendum.

2. **Selecting a Fulfillment Agent**. During the term of the ALA, Customer may select a Fulfillment Agent that has been prequalified by Novell to act as a fulfillment and collection agent under the ALA. The Fulfillment Agent will accept and fulfill all Customer orders and collect all payments and reports that Customer must submit under the terms of the ALA.

3. **Designations**. Customer's name and contact person are as follows:

Customer Name: _____

Contact: _____

Address: _____

_____

_____

Phone/Fax : _____

E-mail: _____

Customer hereby designates the following Fulfillment Agent:

Fulfillment Agent Name: _____

Fulfillment Agent's Address: _____

_____

_____

Contact name: _____

Phone/Fax : _____

E-mail: _____

4. **Fulfillment Agent's Responsibilities**. Fulfillment Agent is authorized to perform the following services.

4.1. Worksheet and Order Management.. At the time Customer signs the ALA, Fulfillment Agent must submit to Novell a copy of Customer's ALA Annual Fee Worksheet and purchase order accompanied by Fulfillment Agent's corresponding purchase order. *Upon receiving subsequent Customer orders, Fulfillment Agent will immediately submit to Novell a copy of the Customer's original ALA Annual Fee Worksheet and the Fulfillment Agent's corresponding purchase order*.

4.2. Record Keeping. During the ALA and for a period of 2 years after the expiration or termination thereof, Fulfillment Agent will maintain records sufficient to substantiate purchase orders submitted to Novell under Section 4.1 above, and the total number of Customer's copies of Novell Software. Upon reasonable written notice, Novell (or its designee) will have the right to audit Fulfillment Agent's records and inspect Fulfillment Agent's facilities during normal business hours to verify compliance with the ALA and this Addendum.

4.3. Payments to Novell. Novell will issue an invoice to Fulfillment Agent upon receipt of Fulfillment Agent's purchase order. Payment terms are net thirty (30) days from the date of invoice. Interest will accrue on all past due balances at the lesser of 1.5% per month or the highest rate allowed by law. Payments from the Fulfillment Agent will be due and owing regardless of whether Fulfillment Agent has successfully collected amounts owed from Customer. There will be no prepay discounts. Fulfillment Agent must immediately submit payment to Novell on any orders prepaid by Customer. In the event Fulfillment Agent's account is 15 days past due, Novell may place all of Fulfillment Agent's accounts under any Novell contract on "Account Hold," effective immediately. Full payments by the Fulfillment Agent to Novell will satisfy Customer's payment obligations under the ALA.

4.4. Account Hold Status. If Novell places Fulfillment Agent on "Account Hold" status, Novell will notify the Fulfillment Agent and the Customer. Fulfillment Agent and Novell will work together in good faith to resolve the "Account Hold" status. If Fulfillment Agent remains on "Account Hold" status for more than thirty (30) days, Customer will notify Novell in writing by the 30th day whether Customer wishes to conduct business under the ALA directly with Novell or whether Customer wishes to designate another Fulfillment Agent. If Customer does not notify Novell as required herein, Novell may, in its discretion, choose to conduct business directly with Customer. If Fulfillment Agent remains on "Account Hold" status for more than thirty (30) days, Novell may terminate this Addendum.

5. **Term/Termination**. This Addendum will become effective on the date it is executed by a Novell authorized signatory, and will expire on termination of the ALA for any reason. Any party may also terminate this Addendum at any time upon 30 days prior written notice to the other parties. Within 30 days after expiration or termination hereof, Fulfillment Agent must pay all amounts due to Novell under this Addendum and must return all Master Software to Novell and provide Novell with a final audit. Termination of this Addendum will not prejudice the enforcement of any undischarged obligation of any party existing at the time of termination.

6. **Selection of New Fulfillment Agent.** Customer and Novell must agree in writing to any change in the Fulfillment Agent. Such changes will take effect 30 days after notice is given by Customer and Novell to the Fulfillment Agent.

7. **Modifications**. This Addendum may not be modified except in writing signed by authorized representatives of each party. *Novell reserves all rights with respect to Novell's Software not expressly granted in the ALA and this Addendum.*

8. **Continuance**. Except as expressly amended and supplemented by this Addendum, the ALA terms remain in effect unchanged.

9. **Signatures.** Customer, Fulfillment Agent, and Novell have each caused this Addendum to be executed by its duly authorized representative, effective as of the date this Addendum is executed by a Novell representative.

CUSTOMER

Signature _____

Print Name _____

Title _____

Date _____

FULFILLMENT AGENT
Fulfillment Agent certifies that it has read the ALA and the current ALA program brochures.

Signature _____

Print Name _____

Title _____

Date _____

NOVELL, INC.

Signature _____

Print Name _____

Title _____

Date _____