

This Academic License Agreement ("ALA" or "Agreement") is entered into by Novell, Inc., a Delaware corporation with a principal place of business located at 1800 South Novell Place, Provo, Utah, 84606, ("Novell"), and the customer identified below ("Customer").

Customer Legal Name:	
Customer Address:	
Primary Contact Name:	
Primary Contact Phone:	
Primary Contact E-mail:	
Please declare your tax status:	<input type="checkbox"/> Yes, Customer is tax exempt. If yes, please attach your certificate of exemption to this Agreement (see item 6.3 below) <input type="checkbox"/> No, Customer is not tax exempt

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 ALA Annual Fee Worksheet that Customer must pay annually to be licensed under this ALA to use the Software.

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 ALA Term.

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

1.4 Customer means an educational organization that has been approved by Novell 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.

1.5 Effective Date means the later of the dates this Agreement is executed by Customer and Novell.

1.6 FTE means a Full-Time Equivalent faculty, staff, or student. The number of Customer's FTEs shall be calculated as the sum of (a) the number of full-time faculty and staff plus the total number of part-time faculty and staff work hours in an average work week divided by 40; and (b) the number of full-time students plus the total number of part-time student credit hours divided by the number of credits that Customer uses to identify full-time

status. For Customers in the United States or Canada that declare a student FTE to their accreditation or governing board, the pre-existing FTE definition of the accreditation organization or governing board may be used in place of subpart (b) above.

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

1.8 Master Software means master media available from Novell from which Customer may make copies to install the Software.

1.9 Software means the Novell software licensed under this ALA as identified on the ALA Annual Fee Worksheet.

1.10 Update means a fix or compilation of fixes released by Novell 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, Novell 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, Novell's opinion will prevail provided Novell 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 not owned or leased by Customer.

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

2.1 Department Workstation. If Customer purchases under the ALA for less than an 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. 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 ALA is incorporated into this Agreement. If there is a conflict between the terms of the EULA and this Agreement, the Agreement terms shall govern. For 90 days from Customer's date of purchase, Novell 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 Novell or if Customer reports the nonconformity to Novell within 90 days from the date of purchase, Novell will at its sole discretion either resolve the

nonconformity or refund the ALA 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.

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

2.4 DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY SUBSECTION AND AS OTHERWISE RESTRICTED BY LAW, NOVELL DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES INCLUDING ANY WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. NOVELL MAKES NO WARRANTY, REPRESENTATION OR PROMISE NOT EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY. NOVELL DOES NOT WARRANT THAT THE SOFTWARE OR SERVICES WILL BE WITHOUT DEFECT OR ERROR, SATISFY YOUR REQUIREMENTS, OR PROVIDE UNINTERRUPTED USE OF THE SOFTWARE.

3 Program Changes. The ALA Program Guide is available at <http://www.novell.com/licensing> and forms an integral part of this Agreement. To the extent of any conflict between the terms of this Agreement and the 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 Program has an adverse effect on Customer's participation in it, Customer will be entitled to terminate the Agreement by giving written notice to Novell within 30 days after receiving notice from Novell of such a change.

4 Master Software and Documentation.

4.1 Master Software and Documentation. Novell will make available Master Software for the Software ordered from the Annual Fee Worksheet. Documentation for Software may be made available in electronic format on Novell'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 Novell's Dock (INCOTERMS 2000). Novell will ship ground only and prepay freight from Novell'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 DDU-POE (Delivery Duty Unpaid – Port of Entry) as defined in INCOTERMS 2000. Novell 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 2000. Novell 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 Novell of taxes or any applicable import duties.

4.2.1 Electronic Delivery. For Software delivered by Novell hereunder by electronic means directly to Customer: i) within the U.S.A., 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 shall be deemed to occur where download is made available at the destination computer; ii) outside the U.S.A., 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 from the U.S.A. to outside of the U.S.A., the Software shall be considered delivered using the Incoterm (2000): 'Delivered Duty Unpaid.' For deliveries within EMEA (i.e. originating in Ireland), the Software shall be considered delivered using the Incoterm (2000) 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 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.

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 Novell commercially releases any Upgrades and/or Updates during the period covered by Customer's ALA License Fee, Novell 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 ALA. Technical support may be purchased under a separate contract.

6 Placing Orders and Payment Terms.

6.1 ALA License Fee. Customer must submit a completed ALA Annual Fee Worksheet and/or a proper purchase order to Novell or an authorized Novell academic fulfillment agent for their ALA License Fee at least 15 days prior to the expiration date of Customer's then-current ALA annual period ("Order Due Date"). Orders submitted after the Order Due Date will incur a late order fee equal to 10% of the ALA License Fee. The late order fee is in addition to annual ALA License Fees, late payment interest, and other obligations that may be due and payable. To participate in the ALA program, Customer's ALA License Fee, as calculated per the ALA Annual Fee Worksheet, must be a minimum of \$5,000. The non-refundable ALA License Fee will be payable in a lump sum net 30 days from the date of invoice. All fees shall be paid in U.S. Dollars.

6.2 Price and Product Changes. Novell may revise the ALA 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 ALA License Fee purchases, Customer may purchase Novell licenses available under Novell'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. Company 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 Novell's net income, such as a withholding tax required under local law. Company agrees to provide Novell with the original receipt documenting any withholding tax levied. Any tax or duty Novell may be required to collect or pay upon the delivery or distribution of the Novell Software will be paid by Company, and such sums shall be due and payable to Novell upon delivery. If Company claims a tax exemption, Company must 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. Certificates should be mailed, e-mailed, or faxed to the following:

If Company is located in Europe, the Middle East or Africa:

Novell Ireland Software Ltd.
Attn. Tax Department
Corrig Court, Corrig Road
Sandyford Business Park
Dublin 18
Fax: +353 1 6058070
Email: tax@novell.com

If Company is located anywhere else, to:

Novell, Inc.
Attn. Tax Department
1800 South Novell Place
Provo, Utah 84606
Fax: (801)861-3122
Email: tax@novell.com

6.4 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.

7 Term and Termination.

7.1 Term. This Agreement 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 ("Term"). At the end of each 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, Novell will refund Customer any prorated portion of the annual fees paid for the period beyond termination.

7.3 Effect of Termination. Upon Agreement termination, all licenses and rights granted under the ALA 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 End User License Agreements shall govern Customer's use of any continuing licenses that Customer purchases.

8 **Formal Audits**. During the Agreement Term and for 2 years afterwards, 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 and FTE. During this time period Novell will have the right, at its expense and upon no less than 10 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. Customer agrees to comply with Novell's reasonable requests to provide information and data concerning the use of the Software. 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 the ALA and will otherwise maintain the confidentiality of such information.

9 LIABILITY LIMITATIONS.

9.1 Indirect Damages. TO THE EXTENT ALLOWED BY APPLICABLE LAW, NEITHER NOVELL NOR CUSTOMER 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. Novell'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 US\$10,000. This subsection does not apply to any damages for personal injury or tangible property caused by the negligence or willful default of Novell.

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. Novell 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. The conflicts of law rules of the governing law are excluded. An action under this Agreement may only be brought before a court of appropriate jurisdiction in the state whose law governs this Agreement under the terms of this section. 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. The ALA is binding upon the parties' and their respective successors and assigns. Unless expressly permitted herein, Customer may not transfer, assign, or delegate any right or obligation set forth in the ALA without Novell's prior written consent, which shall not be unreasonably withheld or delayed.. Customer may, upon prior written notice, assign the ALA to the surviving company or other organization in the event of a merger or acquisition. If Novell sells a Software product to a third party, it may assign its ALA obligations regarding such product to the third party.

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

NOVELL, INC.

Signature: _____

Print Name: _____

Title: _____

Date: _____

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 Novell's right to revise ALA 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 before exporting or re-exporting items subject to the EAR. Refer to: www.novell.com/info/exports/ for more information on exporting Software. Upon request, Novell can provide information regarding applicable export restrictions. However, Novell 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 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 Novell 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.

CUSTOMER

Signature: _____

Print Name: _____

Title: _____

Date: _____