Microsoft Business Solutions Academic Alliance Agreement - LATAM

PLEASE READ THIS EDUCATIONAL SOFTWARE LICENSE AGREEMENT ("AGREEMENT") CAREFULLY. THESE LICENSE TERMS ARE A LEGAL AGREEMENT BETWEEN MICROSOFT CORPORATION ("MICROSOFT") (OR, IF APPLICABLE BASED ON WHERE THE SOFTWARE WAS ACQUIRED, ONE OF ITS AFFILIATES) AND INSTITUTION (AS DEFINED IN SECTION 1(a) BELOW). THESE LICENSE TERMS APPLY TO THE SOFTWARE NAMED BELOW WHICH INCLUDES THE MEDIA ON WHICH IT WAS RECEIVED, IF ANY. BY CLICKING "I AGREE" BELOW AND BY INSTALLING OR USING THE SOFTWARE THAT ACCOMPANIES THIS AGREEMENT OR ANY OF ITS SUPPLEMENTAL COMPONENTS, YOU REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ENTER CONTRACTUAL AGREEMENTS ON BEHALF OF INSTITUTION AND AGREE THAT INSTITUTION WILL BE BOUND BY THE TERMS OF THIS AGREEMENT AND THE TERMS OF ANY RELEVANT ACCOMPANYING END-USER LICENSE AGREEMENT(S) ("EULA(S)") (TO THE EXTENT SUCH EULA TERMS DO NOT CONFLICT WITH THIS AGREEMENT), THE TERMS OF WHICH EULA(S) ARE HEREBY INCORPORATED HEREIN BY REFERENCE.

MICROSOFT DOES NOT COLLECT ANY INFORMATION FROM INSTITUTION OR ITS COMPUTER SYSTEM THAT CAN BE USED TO IDENTIFY INSTITUTION OR CONTACT INSTITUTION WITHOUT ITS CONSENT.
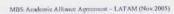
1. **GENERAL.**

    a. The academic alliance licensing program ("Academic Alliance") is operated by Microsoft to provide authorized educational institutions use of the Software Products (as defined in Section 1(b) below) for teaching purposes only.

    For purposes of this Agreement, an "Institution" is defined as a secondary or an accredited post-secondary educational institution organized and operated exclusively for the purpose of teaching its enrolled students. An accredited post-secondary educational institution must be a public or private community college, junior college, polytechnic, college, university, or scientific or technical school that is institutionally accredited by an accrediting agency nationally recognized by the U.S. Secretary of Education or by the equivalent responsible government education administration(s) of Institution's country.

    b. This Agreement governs Institution's use of any of the following, which are referred to collectively as the "Software Products":

- Microsoft Dynamics™ AX (formerly Microsoft Business Solutions—Axapta®)

- Microsoft Dynamics™ GP (formerly Microsoft Business Solutions—Great Plains®)

- Microsoft Dynamics™ NAV (formerly Microsoft Business Solutions—Navision®)

- Microsoft Dynamics™ SL (formerly Microsoft Business Solutions—Solomon)

- Microsoft Dynamics™ CRM (formerly Microsoft Business Solutions CRM)

- Microsoft Business Solutions Retail Management System; and

- such other software product(s) as Microsoft chooses to make part of its Academic Alliance licensing program from time to time.

The Software Products include computer software (including online and electronic documentation) and any associated media and printed materials. The Software Products may also contain server software ("Server Software") and additional software that can be installed on devices separate from the Server Software ("Additional Software"). This Agreement also applies to updates, supplements, add-on components, and Internet-based services components of the Software Products that Microsoft may provide or make available to Institution unless Microsoft provides other terms with the updates, supplements, add-on components, or Internet–based services components in which case those terms that accompany the subject item(s) apply to such extent they do not conflict with this Agreement. Microsoft reserves the right to discontinue any Internet-based services provided to Institution or made available to Institution through the use of the Software Product(s). This Agreement also governs any product support services provided relating to the Software Product(s). An amendment or addendum to this Agreement may accompany the Software Product(s).

2. **INSTALLATION AND USE RIGHTS.** Microsoft grants Institution the following limited rights provided it complies with all terms and conditions of this Agreement and any relevant EULA(s) accompanying the Software Product(s):

   a. Limited License.
   Microsoft grants Institution a revocable, non-exclusive, non-sublicensable, non-transferable license to use the Software Product(s) for educational purposes only, as a general teaching and instructional education tool as part of classes formally offered by the Institution and for disciplines that may make use of the Software Product(s) as a consequence of practicing such discipline (the "Allowed Use"). Each Software Product will feature a click-through (e.g., "I accept") EULA contained within the Software that Institution, through an authorized representative, must accept (in addition to this Agreement) prior to installing or using the Software. Institution may click the "I accept" button to execute each EULA so long as Institution's use is for the Allowed Use only as set forth in this Agreement. Institution shall access Microsoft's customer portal that provides information on the Institution's product licenses, registration keys and other on-line resources (which other on-line resources may or may not be available to Institution) ("CustomerSource System") in order to confirm details of Institution's licensed Software Products, including, but not limited to the name and version number of the Software Product(s) licensed along with registration key information. Further details and instructions on how to access CustomerSource will be provided to Institution by Microsoft separately. To the extent Institution does not receive such instructions, Institution should contact its authorized Microsoft representative. For each Software Product licensed and solely in connection with the Allowed Use, Institution may install (i) a copy of the Server Software on a network storage device, such as a server computer (ii) the Additional Software on access devices, such as personal computers (as set forth below in Section 2(b)) to access and use the licensed copy of the Server Software over a private network solely in conjunction with the Allowed Use. Institution may not use the Software in a live operating environment, or with data that has not been sufficiently backed up. Institution may use the Additional Software components only with the Server Software. Institution may not utilize any unauthorized key code or password to unlock any feature of the Software or any component thereof; nor may Institution use the Software or any part thereof to offer training in use of the Software or any part thereof to anyone except as expressly set forth in this Agreement.

   b. Registration and Usage.
   i) Programs. Institution agrees that it will register each Software Product separately inputting Institution's name in the "Company name" field during the registration process. Use of each Software Product will be subject to the terms and conditions set forth under the relevant EULA contained within each Software Product

except, in the event of any inconsistency and/or conflict between this Agreement and the relevant EULA(s), the terms of this Agreement will govern. Notwithstanding any license grant contained in any accompanying EULA(s), the Software Product(s) are to be used for the Allowed Use only and only on computers located at a single campus controlled by the Institution where the relevant educational courses are normally presented. Institution may make additional copies of the Software Product(s) to provide one (1) copy (only) for each computer used by Institution for the Allowed Use and (if applicable and only if Institution is able to obtain restricted registration keys) one (1) copy for each student pursuant to the terms of section 2(b)(iii) below. The Software Products may not otherwise be copied (except as specifically permitted in the EULA for archival purposes) or offered for sale, lease or lending. The Software Product(s) are not to be used, in any manner whatsoever (i) for institutional administrative use including for processing the Institution's financial or other data, nor (ii) for evaluation purposes for institutional administrative use or for personal or family business use, nor (iii) for training or educating anyone on the use or operation of the Software Product(s) except as incidental to the Allowed Use.

ii) <u>Multiple Companies</u>. For the sole purpose of furthering the Allowed Use, Institution may set up and use multiple fictional "companies" if and when the Software Product(s) prompt Institution for such information, so long as the creation and use of such "companies" is in furtherance of the Allowed Use.

iii) <u>Registration keys.</u> Any and all registration keys are for the sole use of Institution's educators and systems administrators. Should the need arise to provide students with a copy of a Software Product, it may be possible for Institution to obtain restricted registration keys from Microsoft through the Academic Alliance. Such restricted registration keys (if obtained) would automatically restrict the Software Product(s) to a single-user system with the company name field occupied by the Institution's name along with the phrase "Student Version." A student's use (if any) of the Software Product(s) shall be subject to the terms and conditions of this Agreement and any applicable EULA(s). If Institution is able to obtain and provide students with such registration keys, it shall be responsible for ensuring that the students' use of the Software Product(s) is for the Allowed Use only. Nothing in this paragraph shall be construed as an obligation on the part of Microsoft to provide restricted registration keys to Institution for student use. To determine whether restricted registration keys are available for student use, Institution should contact its authorized Microsoft representative.

iv) <u>Third-Party Software</u>. The Software Product(s) may include programs licensed from third parties. The terms that come with those programs apply to Institution's use thereof.

v) <u>Internet-Based Services</u>. Institution may not use any Microsoft Internet-based services associated with the Software Product(s) in any manner that could damage, disable, overburden, or impair such services or interfere with any other party's use and enjoyment of them. Institution may not attempt to gain unauthorized access to any service, account, computer systems or networks associated with the Internet-based services.

3. **Scope of License.** The Software Products are licensed, not sold. This agreement only gives Institution limited rights to use the Software Product(s). Microsoft reserves all other rights. Unless applicable law gives Institution more rights despite this limitation, Institution may use the Software Product(s) only as expressly permitted by this Agreement. Rights to access the Server Software do not give Institution any rights to implement any of the Software's functionality, including communication protocols of the Server Software, in any other software or any device that accesses the Server Software. The Software Product(s) are engineered to
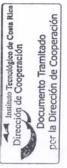
allow Institution to use it in certain ways. It is Institution's responsibility to read the technical information before using or installing the Software Product(s). Institution must comply with these technical limitations. For more information about them, see the Software Product(s) packaging and/or accompanying documentation. Institution may not:

- work around the technical limitation in the Software Product(s);
- reverse engineer, decompile or disassemble the Software Product(s), except and only to the extent that applicable law expressly permits, despite this limitation;
- make more copies of the Software Product(s) than specified in this agreement or allowed by applicable law, despite this limitation;
- publish the Software Product(s) for others to copy;
- rent, lease or lend it; or
- use it for commercial software hosting services.

4. **Authorized technical support.** To the extent, if any, Microsoft offers and authorizes technical support for the Software Product(s) licensed pursuant to this Agreement, such technical support, when provided, will be provided for the sole use of Institution's educators, systems administrators and their staff in support of the Allowed Use only. Microsoft will not, at any time, for any reason, make technical support assistance available to students. Notwithstanding the foregoing, Microsoft is not obligated to provide maintenance, technical or other support, or updates to Institution for the Software Product(s).

5. **Documentation.** Except as provided in the following paragraph, manuals and other documentation supplied with the Software Product(s) may be reproduced in whole or in part by Institution at its cost for the benefit of its students solely for the purpose of the Allowed Use, provided that (i) each copy shall be a true and complete copy, including all copyright and trademark notices and (ii) no copy shall be offered for resale.

6. **Price and other obligations of the Institution.** The Software Product(s), along with enhancements and technical support, if any, are being provided to the Institution at no charge. In consideration for this donation of Software Product(s), the Institution agrees that Software Product(s) will be used in course curriculum for at least one (1) class per year. The Institution also agrees to provide Microsoft, upon Microsoft's request, an annual update of Institution's use of the Software Product(s), including the name of the class(es), the number of students enrolled in each class as well as the professor/instructor's name(s). Institution also agrees to accept electronic delivery of a quarterly Academic Alliance newsletter that is published for the benefit of Academic Alliance members. If at any time after Institution has fulfilled its obligations pursuant to this Agreement, Institution elects to discontinue using the Software Product(s), Institution will immediately notify Microsoft, return and/or destroy all copies of Software Product(s) in Institution's possession, including all accompanying documentation, remove any and all Software Product(s) from Institution's computers and this Agreement and any relevant accompanying EULA(s) will be deemed terminated.

7. **Exclusivity.** This Agreement is non-exclusive and nothing herein shall prevent either party from entering into similar arrangements with third parties or from offering, promoting or developing other services, platforms or products that compete with the services, platforms or products that are the subject of this Agreement.

8. **Publicity.** The Institution grants Microsoft the right to include Institution's name in any listing of Academic Alliance members. Other than the foregoing, neither Institution nor Microsoft will make or release any press release or other public announcement with respect to the parties' arrangement or this Agreement without the prior written approval of the other party as to the content, form and timing of such press release or announcement.

9. **Intellectual Property Rights.** Nothing in this Agreement or its performance grants either party any right, title, interest, or license in or to the other party's names, logos, logotypes, trade dress, designs, or other trademarks.

10. **Limitations of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN EULAS ACCOMPANYING ANY SOFTWARE PRODUCT:
a) DISCLAIMER OF WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MICROSOFT AND ITS SUPPLIERS PROVIDE THE SOFTWARE PRODUCT(S) AND ANY SUPPORT SERVICES (IF APPLICABLE) RELATED TO THE SOFTWARE PRODUCT(S) ("SUPPORT SERVICES") AS IS, AT NO COST, WITH ALL FAULTS, AND HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY (IF ANY) WARRANTIES, DUTIES OR CONDITIONS OF OR RELATED TO: MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES, RESULTS, WORKMANLIKE EFFORT AND LACK OF NEGLIGENCE. ALSO, THERE IS NO WARRANTY, DUTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT. THE ENTIRE RISK AS TO THE QUALITY, OR ARISING OUT OF THE USE OR PERFORMANCE OF THE PROGRAMS AND ANY SUPPORT SERVICES, REMAINS WITH INSTITUTION. ADDITIONALLY, INSTITUTION ACKNOWLEDGES THAT THE PROGRAMS MAY PROVIDE ACCESS TO WEB SERVICES OPERATED BY THIRD PARTIES ("THIRD-PARTY SERVICES") AND THAT MICROSOFT MAKES NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AS TO THE OPERATION OF SUCH THIRD-PARTY SERVICES.

b) EXCLUSION OF DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT OR ITS SUPPLIERS BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR: LOSS OF PROFITS, LOSS OF CONFIDENTIAL OR OTHER INFORMATION, BUSINESS INTERRUPTION, PERSONAL INJURY, LOSS OF PRIVACY, FAILURE TO MEET ANY DUTY (INCLUDING OF GOOD FAITH OR OF REASONABLE CARE), NEGLIGENCE, AND ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SOFTWARE PRODUCT(S) OR SUPPORT SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT OR ANY EULA THAT ACCOMPANIES THE SOFTWARE PRODUCT(S), EVEN IN THE EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF MICROSOFT OR ANY SUPPLIER, AND EVEN IF MICROSOFT OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATIONS MAY NOT APPLY TO INSTITUTION.

c) LIMITATION OF LIABILITY AND REMEDIES. NOTWITHSTANDING ANY DAMAGES THAT INSTITUTION MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED ABOVE AND ALL DIRECT OR GENERAL DAMAGES), THE ENTIRE LIABILITY OF MICROSOFT AND ANY OF ITS SUPPLIERS UNDER ANY PROVISION OF THIS AGREEMENT OR ANY EULA ACCOMPANYING A SOFTWARE PRODUCT AND INSTITUTION'S EXCLUSIVE REMEDY FOR ALL OF THE FOREGOING SHALL BE LIMITED TO ACTUAL DAMAGES INCURRED BY INSTITUTION BASED ON REASONABLE RELIANCE UP TO THE GREATER OF THE AMOUNT ACTUALLY PAID BY INSTITUTION FOR THE SOFTWARE PRODUCT(S) OR EQUIVENT OF FIVE DOLLARS (US$5.00). ADDITIONALLY, MICROSOFT SHALL NOT HAVE ANY LIABILITY WITH RESPECT TO ANY INCIDENT OR DAMAGES ARISING OUT

OF OR RELATED TO ANY THIRD-PARTY SERVICES. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS (INCLUDING SUBSECTIONS (A) AND (B) ABOVE) SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

11. **ENTIRE AGREEMENT.** This Agreement and any amendments to it, along with any and all relevant EULA(s) accompanying the Software Product(s) as well as the terms for supplements, updates, Internet-based services and support services, if any (to the extent such EULA(s) and terms do not conflict with this Agreement), are the entire agreement between Microsoft and Institution in relation to the Software Product(s) and services, if any.

12. **APPLICABLE LAW.**

a. **United States.** If Institution acquired the Software Product(s) in the United States, Washington state law governs the interpretation of this Agreement and applies to claims for breach of it, regardless of conflict of law principles. The laws of the state where Institution is located shall govern all other claims, including claims under state consumer protection laws (if applicable), unfair competition laws, and in tort.

b. **Outside the United States.** If Institution acquired the Software Product(s) in any other country, the laws of the country where Institution is located shall apply.

13. **LEGAL EFFECT.** This agreement describes certain legal rights. Institution may have other rights under the laws of Institution's state or country. Institution may also have rights with respect to the party from whom Institution acquired the Software Product(s). This agreement does not change Institution's rights under the laws of the state or country in which it is principally located if the laws of such state or country do not permit it to do so.

14. **TERMINATION.** Notwithstanding anything to the contrary contained in any EULA that accompanies any of the Software Product(s), Microsoft may revoke the limited license granted in this Agreement and/or the licenses granted in relevant accompanying EULA(s) and terminate this Agreement and the relevant EULA(s) at any time in Microsoft's sole discretion. Without prejudice to any other rights, Microsoft may also terminate this Agreement and any relevant accompanying EULA(s) if Institution fails to comply with the terms and conditions of this Agreement or any of the EULAs accompanying the Software Product(s). In the event of Microsoft's termination, or termination pursuant to Section 6 of this Agreement, Institution must return or destroy all copies of the Software Product(s) and any and all of its component parts.

15. **CONFIDENTIALITY.** The following terms and conditions apply to exchanges of information that take place under the Agreement.

a. "Confidential information" means nonpublic information that the Institution, Microsoft, or an affiliate designates as being confidential or which, under the circumstances surrounding disclosure, or given the nature of the disclosure, should be treated as confidential.

b. The Institution and Microsoft must refrain from disclosing any confidential information of the other for five years following the date of disclosure, except that if the confidential information contains personal information (such as customer contact information), there is no time limit regarding non-disclosure. Neither party will be liable for disclosure of information which the receiving party can prove (a) is already known to the disclosing party without an obligation to maintain the same as confidential; (b) becomes publicly known through no wrongful act of the disclosing party; (c) is rightfully received from a third party without breach of an obligation of confidentiality owed to the other party; or (d) is independently developed by the disclosing party.

c. However, confidential information may be disclosed as required by a judicial or other governmental order, if the receiving party either: (i) gives reasonable notice of the order to allow the other party a reasonable opportunity to seek a protective order or otherwise prevent or restrict its disclosure, or (ii) obtains written assurance from the applicable judicial or governmental entity that it will protect the confidential information to the maximum level allowed under applicable law or regulation.

d. The term "residuals" means information in intangible form, which is retained in memory by persons who have had access to the confidential information, including ideas, concepts, know-how, or techniques contained therein. The Institution and Microsoft are free to use the residuals resulting from access to or work with confidential information for any purpose, however, the receiving party may not disclose the confidential information except as expressly permitted pursuant to the terms of this agreement. The receiving party will not have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals. This sub-paragraph does not grant a license to the receiving party under the disclosing party's copyrights or patents.

e. One party may provide the other party with suggestions, comments or voluntary feedback if it does not violate any other contractual or legal obligations. This feedback may be used, disclosed, reproduced, licensed, distributed and exploited by either party without obligation or restriction of any kind. Unless the parties specifically agree in writing, this feedback, even if designated as confidential, will not create a confidentiality obligation.

Accepted and agreed:

MICROSOFT	INSTITUTION
Signature: _Camille Dayherty_	Signature: _Eugenio_
Name: _Janelle Daugherty_	Name: _____
Title: _Academic Alliance_	Title: _____
Microsoft or Affiliate: _MS_	Institution: _____
Date: _3.21-06_	Date: _____