STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES

CONTRACT FOR PRODUCTS AND RELATED SERVICES

Microsoft Corporation

1.   Introduction

A. Parties
This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter "DIR") with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Microsoft Corporation (hereinafter "Vendor"), with its principal place of business at One Microsoft Way, Redmond, Washington 98052.

B. Compliance with Procurement Laws
This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts' Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-213, on August 4, 2014, for Education Information Technology (IT) Products and Related Services. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-213 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence
For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-213, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-213, including all addenda are incorporated by reference and constitute the entire agreement between DIR and Vendor.governing purchase transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Appendix E, then Appendix F, then Exhibit 1, and finally Exhibit 2.

2.   Term of Contract
The term of this Contract shall be one (1) year commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to three (3) optional one-year terms. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Product and Service Offerings

A. Products
Products available under this Contract are limited to Education Information Technology (IT) Products and Related Services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

B. Services
Services available under this Contract are limited to product-related services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

4. Pricing
Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

5. DIR Administrative Fee
A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three-quarters of one percent (.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling $100,000 shall be $750.00.

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer.

6. Notification
All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:
Dana L. Collins, CTPM, CTCM
Manager, Contract and Vendor Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 936-2233
Facsimile: (512) 475-4759
Email: dana.collins@dir.texas.gov

<u>If sent to the Vendor</u>:
Todd Minor
Microsoft Corporation
One Microsoft Way
Redmond, Washington
Phone: (425) 421-0494 ext.10494
Email: toddmin@microsoft.com

7.   **Software License, Service and Leasing Agreements**

A. Shrink/Click-wrap License Agreement

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor.

It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.

8.   Authorized Exceptions to Appendix A, Standard Terms and Conditions for Product and Related Services Contracts.

A. Appendix A, Section 5, Intellectual Property Matters is hereby deleted and replaced in its entirety as follows:

This contract does not contemplate, authorize or support acquisition of custom software products or services. If Vendor and Customer seek to contract for such product or service, they must use a separate contract or seek amendment with DIR of this contract. If DIR and Vendor decide to authorize customized software or hardware products; then the intellectual property language will be negotiated and applied.

B. Appendix A, Section 10, Vendor Responsibilities, J. Background and/or Criminal History Investigation is hereby restated in its entirety as follows:

Customer may, at its sole expense, request that any Vendor employee, undergo a criminal background check ("Customer Owned Check") administered by Customer or Customer's vendor, prior to the employee's entry on Customer's premises, or prior to obtaining badge or systems access provided Customer (i) acknowledges that consent to

such background check is entirely voluntary on the part of Vendor's employee(s), and (ii) agrees to obtain the consent of such employee prior to performing a Customer Owned Check. Should a Vendor employee, choose not to consent to such a Customer Owned Check, Customer may, at its option, refuse or withdraw that employee's permission to enter Customer's premises or to access Customer's systems . Customer Owned Checks that Customer or its subcontractors or agents perform will be job-related only and conducted in accordance with the Fair Credit Reporting Act and other applicable laws and regulations. DIR and Customer agrees (x) to use the results of any such Customer Owned Check only in connection with Customer's decision whether to permit the Vendor employee to enter or remain on Customer property, or to access Customer's systems; (y) to not disclose the result of such Customer Owned Check to Vendor or any third party, except as required by law; and (z) to not share the contents or provide Vendor or any third party with any copy of the consumer report generated by the Customer Owned Check of any Vendor employee(s), except as required by law. If, as a result of a Customer Owned Check, Customer refuses or withdraws Vendor's employee(s)' permission to enter or remain on Customer property, or to access Customer's systems, Vendor shall promptly replace such employee on the Customer project in question.

C. **Appendix A, Section 10, Vendor Responsibilities, N. Required Insurance Coverage** is hereby restated in its entirety as follows:

As a condition of this Contract with DIR, Vendor shall provide the listed insurance coverage within 5 business days of execution of the Contract if the Vendor is awarded services which require that Vendor's employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, the Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. Vendor may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor there under. Vendor may, at its option, meet the contractual insurance requirements via commercial insurance, self-insurance, alternative risk financing techniques, or a combination of these options. The minimum acceptable insurance provisions are as follows:

1) Commercial General Liability
Commercial General Liability must include a combined single limit of $1,000,000 per occurrence for coverage A, B, & C including products/completed operations, where appropriate, with a separate aggregate limit of $2,000,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:
a) Blanket contractual liability coverage for liability assumed under the Contract;
b) Independent Contractor coverage; and

c) 30-day Notice of Termination in favor of DIR and/or Customer.

2) Workers' Compensation Insurance
WORKERS' COMPENSATION INSURANCE AND EMPLOYERS' LIABILITY COVERAGE MUST INCLUDE LIMITS CONSISTENT WITH STATUTORY BENEFITS OUTLINED IN THE TEXAS WORKERS' COMPENSATION ACT (ART. 8308-1.01 ET SEQ. TEX. REV. CIV. STAT) AND MINIMUM POLICY LIMITS FOR EMPLOYERS' LIABILITY OF $1,000,000 BODILY INJURY PER ACCIDENT, $1,000,000 BODILY INJURY DISEASE POLICY LIMIT AND $1,000,000 PER DISEASE PER EMPLOYEE.

3) Business Automobile Liability Insurance
Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of $500,000 per occurrence for bodily injury and property damage. Alternative acceptable limits are $250,000 bodily injury per person, $500,000 bodily injury per occurrence and at least $100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of DIR and/or Customer:
a) 30-day Notice of Termination

D. **Appendix A, Section 10, Vendor Responsibilities, P. Immigration** is hereby restated in its entirety as follows:

The Vendor and all of its subcontractors performing work related to this contract shall comply with all requirements related to federal immigration laws and regulations, to include but not be limited to, the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) who will perform any labor or services under this Contract.

(Remainder of Page Intentionally Left Blank)

This Contract is executed to be effective as of the date of last signature.

Microsoft Corporatiom

Authorized By: __Signature on File_____

Name: __David McAughan_____

Title: ____VP/COO, Microsoft Stores_____

Date: __12/04/2015_____

The State of Texas, acting by and through the Department of Information Resources

Authorized By:__Signature on File_____

Name: _ Dale Richardson_____

Title: __Chief Operations Officer_____

Date:___12/10/2015_____ _____ _ __

Office of General Counsel: __Signature on File__ _