

# MICROSOFT PRE-RELEASE SOFTWARE LICENSE TERMS

## MICROSOFT WINDOWS SERVER CODE NAME “Vail”

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These license terms are an agreement between Microsoft Corporation (or based on where you live, one of its affiliates) and you. Please read them. They apply to the pre-release software named above, which includes the media on which you received it, if any. The terms also apply to any Microsoft

- updates,
- supplements,
- Internet-based services, and
- support services

for this software, unless other terms accompany those items. If so, those terms apply.

**BY USING THE SOFTWARE, YOU ACCEPT THESE TERMS. IF YOU DO NOT ACCEPT THEM, DO NOT USE THE SOFTWARE.**

**AS DESCRIBED BELOW, USING SOME FEATURES ALSO OPERATES AS YOUR CONSENT TO THE TRANSMISSION OF CERTAIN STANDARD COMPUTER INFORMATION FOR INTERNET-BASED SERVICES.**

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**If you comply with these license terms, you have the rights below.**

### 1. INSTALLATION AND USE RIGHTS.

- You may install and use any number of copies of the software on your premises to design, develop and test your programs for use with the software. You may use as many copies of the software as the product key permits.
- You may not test the software in a live operating environment unless Microsoft permits you to do so under another agreement.

### 2. INTERNET-BASED SERVICES. Microsoft provides Internet-based services with the software. It may change or cancel them at any time.

- a. Consent for Internet-Based Services.** The software features described below connect to Microsoft or service provider computer systems over the Internet. In some cases, you will not receive a separate notice when they connect. You may switch off these features or not use them. For more information about these features, see <http://go.microsoft.com/fwlink/?LinkId=38670>. **BY USING THESE FEATURES, YOU CONSENT TO THE TRANSMISSION OF THIS INFORMATION.** Microsoft does not use the information to identify or contact you.

- i. Computer Information.** The following features use Internet protocols, which send to the appropriate systems computer information, such as your Internet protocol address, the type of operating system, browser and name and version of the software you are using, and the language code of the device where you installed the software. Microsoft uses this information to make the Internet-based services available to you.

- Windows Update Feature. You may connect new hardware to the device where you installed the software. Your device may not have the drivers needed to communicate with that hardware. If so, the update feature of the software can obtain the correct driver from Microsoft and install it on your device. You can switch off this update feature.
- Web Content Features. Features in the software can retrieve related content from Microsoft and provide it to you. To provide the content, these features send to Microsoft the type of operating system, name and version of the software you are using, type of browser and

language code of the device where you installed the software. Examples of these features are clip art, templates, online training, online assistance and Appshelp. You may choose not to use these web content features.

- Digital Certificates. The software uses digital certificates. These digital certificates confirm the identity of Internet users sending X.509 standard encrypted information. The software retrieves certificates and updates certificate revocation lists. These security features operate only when you use the Internet.
- Windows Media Digital Rights Management. Content owners use Windows Media digital rights management technology (WMDRM) to protect their intellectual property, including copyrights. This software and third party software use WMDRM to play and copy WMDRM-protected content. If the software fails to protect the content, content owners may ask Microsoft to revoke the software's ability to use WMDRM to play or copy protected content. Revocation does not affect other content. When you download licenses for protected content, you agree that Microsoft may include a revocation list with the licenses. Content owners may require you to upgrade WMDRM to access their content. Microsoft software that includes WMDRM will ask for your consent prior to the upgrade. If you decline an upgrade, you will not be able to access content that requires the upgrade. You may switch off WMDRM features that access the Internet. When these features are off, you can still play content for which you have a valid license.
- Windows Media Player. When you use Windows Media Player, it checks with Microsoft for
  - compatible online music services in your region;
  - new versions of the player; and
  - codecs if your device does not have the correct ones for playing content.

You can switch off this last feature. For more information, go to

[www.microsoft.com/windows/windowsmedia/mp10/privacy.aspx](http://www.microsoft.com/windows/windowsmedia/mp10/privacy.aspx).

- Windows Rights Management Services. The software contains a feature that allows you to create content that cannot be printed, copied or sent to others without your permission. You must connect to Microsoft to use this feature for the first time. Once a year, you must re-connect to Microsoft to update it. For more information, go to [www.microsoft.com/WINDOWS/RM/PRIVACY](http://www.microsoft.com/WINDOWS/RM/PRIVACY). You may choose not to use this feature.
- Customer Experience Improvement Program (CEIP) and Error Reports. This software uses CEIP, which automatically sends to Microsoft anonymous information about your hardware and how you use this software. For more information about CEIP, see <http://go.microsoft.com/fwlink/?LinkId=19422>. This software also automatically sends error reports to Microsoft that describe which software components had errors. Reports might unintentionally contain personal information. For example, a report that contains a snapshot of computer memory might include your name, part of a document you were working on, or data that you recently submitted to a website. Microsoft does not use the information in error reports to identify you or contact you. For more information about error reports, see <http://go.microsoft.com/fwlink/?LinkId=31490>.

ii. **Use of Information.** We may use the computer information, error reports, and CEIP information, to improve our software and services. We may also share it with others, such as hardware and software vendors. They may use the information to improve how their products run with Microsoft software.

b. **Misuse of Internet-based Services.** You may not use these services in any way that could harm them or impair anyone else's use of them. You may not use the services to try to gain unauthorized access to any service, data, account or network by any means.

3. **TIME-SENSITIVE SOFTWARE.** The software will stop running on April 17, 2008. You will not receive any other notice. You may not be able to access data used with the software when it stops running.

4. **MANDATORY ACTIVATION. TO PREVENT ITS UNLICENSED USE, YOU WILL NOT BE ABLE TO USE THE SOFTWARE IF YOU DO NOT ACTIVATE IT AS DESCRIBED DURING INSTALLATION.** You can activate the software by Internet or telephone; Internet and telephone service charges may apply. Some changes to your computer components or the software may require you to reactivate the software. **THE SOFTWARE WILL REMIND YOU TO ACTIVATE UNTIL YOU DO.**
5. **PRODUCT KEYS.** The software requires a key to install or access it. You are responsible for the use of keys assigned to you. You should not share the keys with third parties.
6. **PRE-RELEASE SOFTWARE.** This software is a pre-release version. It may not work the way a final version of the software will. We may change it for the final, commercial version. We also may not release a commercial version.
7. **FEEDBACK.** Because this is pre-release software, you agree to give feedback about the software to Microsoft. You give to Microsoft, without charge, the right to use, share and commercialize your feedback in any way and for any purpose. You also give to third parties, without charge, any patent rights needed for their products, technologies and services to use or interface with any specific parts of a Microsoft software or service that includes the feedback. You will not give feedback that is subject to a license that requires Microsoft to license its software or documentation to third parties because we include your feedback in them. These rights survive this agreement.
8. **CONFIDENTIAL INFORMATION.** The software, including its user interface, features and documentation, is confidential and proprietary to Microsoft and its suppliers.
  - a. **Use.** For two years after installation of the software or its commercial release, whichever is first, you may not disclose confidential information to third parties. You may disclose confidential information to third parties only if you obtain prior written consent from Microsoft's legal department. You may contact them at [oseula@microsoft.com](mailto:oseula@microsoft.com). You may disclose confidential information only to your employees and consultants who need to know the information. You must have written agreements with them that protect the confidential information at least as much as this agreement.
  - b. **Survival.** Your duty to protect confidential information survives this agreement.
  - c. **Exclusions.** You may disclose confidential information in response to a judicial or governmental order. You must first give written notice to Microsoft to allow it to seek a protective order or otherwise protect the information. Confidential information does not include information that
    - becomes publicly known through no wrongful act;
    - you received from a third party who did not breach confidentiality obligations to Microsoft or its suppliers; or
    - you developed independently.
9. **MICROSOFT .NET FRAMEWORK BENCHMARK TESTING.** The software includes the .NET Framework component of the Windows operating systems (".NET Component"). You may conduct internal benchmark testing of the .NET (".NET Component"). You may disclose the results of any benchmark test of the .NET Component, provided that you comply with the following terms: (1) you must disclose all the information necessary for replication of the tests, including complete and accurate details of your benchmark testing methodology, the test scripts/cases, tuning parameters applied, hardware and software platforms tested, the name and version number of any third party testing tool used to conduct the testing, and complete source code for the benchmark suite/harness that is developed by or for you and used to test both the .NET Component and the competing implementation(s); (2) you must disclose the date(s) that you conducted the benchmark tests, along with specific version information for all Microsoft software products tested, including the .NET Component; (3) your benchmark testing was performed using all performance tuning and best practice guidance set forth in the product documentation and/or on Microsoft's support web sites, and uses the latest updates, patches and fixes available for the .NET Component and the relevant Microsoft operating system; (4) it shall be sufficient if you make the disclosures provided for above at a publicly available location such as a website, so long as every public disclosure of the results of your benchmark test expressly identifies the public site containing all required disclosures; and (5) nothing in this provision shall be deemed to waive any other right that you may have to conduct benchmark testing. The foregoing obligations shall not apply to your disclosure of the results of any customized benchmark test of the .NET Component, whereby such disclosure is made under confidentiality in conjunction with a

bid request by a prospective customer, such customer's application(s) are specifically tested and the results are only disclosed to such specific customer. Notwithstanding any other agreement you may have with Microsoft, if you disclose such benchmark test results, Microsoft shall have the right to disclose the results of benchmark tests it conducts of your products that compete with the .NET Component, provided it complies with the same conditions above.

**10. SCOPE OF LICENSE.** The software is licensed, not sold. This agreement only gives you some rights to use the software. Microsoft reserves all other rights. Unless applicable law gives you more rights despite this limitation, you may use the software only as expressly permitted in this agreement. In doing so, you must comply with any technical limitations in the software that only allow you to use it in certain ways. You may not

- disclose the results of any benchmark tests of the software, other than the Microsoft .NET Framework (see separate term above), to any third party without Microsoft's prior written approval;
- work around any technical limitations in the software;
- reverse engineer, decompile or disassemble the software, except and only to the extent that applicable law expressly permits, despite this limitation;
- make more copies of the software than specified in this agreement or allowed by applicable law, despite this limitation;
- publish the software for others to copy;
- rent, lease or lend the software;
- transfer the software or this agreement to any third party; or
- use the software for commercial software hosting services.

**11. EXPORT RESTRICTIONS.** The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see [www.microsoft.com/exporting](http://www.microsoft.com/exporting).

**12. SUPPORT SERVICES.** Because this software is "as is," we may not provide support services for it.

**13. ENTIRE AGREEMENT.** This agreement, and the terms for supplements, updates, Internet-based services and support services that you use, are the entire agreement for the software and support services.

**14. APPLICABLE LAW.**

- a. United States.** If you acquired the software 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 laws principles. The laws of the state where you live govern all other claims, including claims under state consumer protection laws, unfair competition laws, and in tort.
- b. Outside the United States.** If you acquired the software in any other country, the laws of that country apply.

**15. LEGAL EFFECT.** This agreement describes certain legal rights. You may have other rights under the laws of your country. You may also have rights with respect to the party from whom you acquired the software. This agreement does not change your rights under the laws of your country if the laws of your country do not permit it to do so.

**16. DISCLAIMER OF WARRANTY. THE SOFTWARE IS LICENSED "AS-IS." YOU BEAR THE RISK OF USING IT. MICROSOFT GIVES NO EXPRESS WARRANTIES, GUARANTEES OR CONDITIONS. YOU MAY HAVE ADDITIONAL CONSUMER RIGHTS UNDER YOUR LOCAL LAWS WHICH THIS AGREEMENT CANNOT CHANGE. TO THE EXTENT PERMITTED UNDER YOUR LOCAL LAWS, MICROSOFT EXCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.**

**17. LIMITATION ON AND EXCLUSION OF REMEDIES AND DAMAGES. YOU CAN RECOVER FROM MICROSOFT AND ITS SUPPLIERS ONLY DIRECT DAMAGES UP TO U.S. \$5.00. YOU CANNOT**

**RECOVER ANY OTHER DAMAGES, INCLUDING CONSEQUENTIAL, LOST PROFITS, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES.**

This limitation applies to

- anything related to the software, services, content (including code) on third party Internet sites, or third party programs; and
- claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort to the extent permitted by applicable law.

It also applies even if Microsoft knew or should have known about the possibility of the damages. The above limitation or exclusion may not apply to you because your country may not allow the exclusion or limitation of incidental, consequential or other damages.

**Please note: As this software is distributed in Quebec, Canada, some of the clauses in this agreement are provided below in French.**

**Remarque : Ce logiciel étant distribué au Québec, Canada, certaines des clauses dans ce contrat sont fournies ci-dessous en français.**

**EXONÉRATION DE GARANTIE.** Le logiciel visé par une licence est offert « tel quel ». Toute utilisation de ce logiciel est à votre seule risque et péril. Microsoft n'accorde aucune autre garantie expresse. Vous pouvez bénéficier de droits additionnels en vertu du droit local sur la protection des consommateurs, que ce contrat ne peut modifier. La ou elles sont permises par le droit locale, les garanties implicites de qualité marchande, d'adéquation à un usage particulier et d'absence de contrefaçon sont exclues.

**LIMITATION DES DOMMAGES-INTÉRÊTS ET EXCLUSION DE RESPONSABILITÉ POUR LES DOMMAGES.** Vous pouvez obtenir de Microsoft et de ses fournisseurs une indemnisation en cas de dommages directs uniquement à hauteur de 5,00 \$ US. Vous ne pouvez prétendre à aucune indemnisation pour les autres dommages, y compris les dommages spéciaux, indirects ou accessoires et pertes de bénéfices.

Cette limitation concerne :

- tout ce qui est relié au logiciel, aux services ou au contenu (y compris le code) figurant sur des sites Internet tiers ou dans des programmes tiers ; et
- les réclamations au titre de violation de contrat ou de garantie, ou au titre de responsabilité stricte, de négligence ou d'une autre faute dans la limite autorisée par la loi en vigueur.

Elle s'applique également, même si Microsoft connaissait ou devrait connaître l'éventualité d'un tel dommage. Si votre pays n'autorise pas l'exclusion ou la limitation de responsabilité pour les dommages indirects, accessoires ou de quelque nature que ce soit, il se peut que la limitation ou l'exclusion ci-dessus ne s'appliquera pas à votre égard.

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