



From: Haruaki Kayama
Sent: Monday, June 28, 1999 8:26 PM
To: Candace Grisdale; Remco Hendrikse (LCA)
Cc: Junko Suzuki
Subject: RE: Phone Number Aki at MSKK

Candace, here's the pre-final draft which Toshiba can start reviewing. Remco, please note that Exhibit B has been excluded from the draft.



AAL License and C
6_4_99 n.co...

thanks
aki

—Original Message—

From: Candace Grisdale
Sent: Tuesday, June 29, 1999 12:14 PM
To: Remco Hendrikse (LCA); Haruaki Kayama
Cc: Junko Suzuki
Subject: RE: Phone Number Aki at MSKK
Importance: High

I have Aki on the phone right now. Can someone send me the draft final again so that we're all on the same page?

—Original Message—

From: Remco Hendrikse (LCA)
Sent: Monday, June 28, 1999 8:08 PM
To: Junko Suzuki
Cc: Candace Grisdale
Subject: Phone Number Aki at MSKK
Importance: High

Junko-san, please email us ASAP the phone number(s) at which Aki Kayama can be reached.

Doomo arrigato.

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DRAFT - FOR DISCUSSION PURPOSES ONLY

AMENDMENT NUMBER 5
Amendment Date: June 1, 1999

to MICROSOFT OEM LICENSE AGREEMENT WITH MINIMUM COMMITMENT PAYMENTS
between MICROSOFT CORPORATION, a Washington, U.S.A. Corporation
and TOSHIBA AMERICA INFORMATION SYSTEMS, INC., a Corporation of California
(as assigned to MICROSOFT LICENSING, INC., a Nevada, U.S.A. Corporation)
Agreement Effective Date: May 1, 1997
MICROSOFT LICENSE # 5000020157 (5505-7143)

Microsoft Corporation transferred its OEM licensing operations to its wholly owned subsidiary, Microsoft Licensing, Inc., a Nevada, U.S.A. corporation, on December 31, 1997. Accordingly the above-referenced license agreement was assigned by separate instrument to Microsoft Licensing, Inc. on that date.

Effective as of the Amendment Date indicated above, the below signed parties agree that the indicated portions of the above referenced license agreement (hereinafter the "Agreement") are hereby amended by this instrument (hereinafter the "Amendment"), as follows:

Section 1. Section 9 of the Agreement is hereby amended and as amended shall read as follows:

"The term of this Agreement shall run from the Effective Date through December 31, 1999."

2.2. Exhibit B4 of the Agreement is hereby amended and replaced with the attached Exhibit B4.

2.3. Exhibit C1 of the Agreement is hereby amended and replaced with the attached Exhibit C1.

4. The attached Exhibit C4 is hereby added to the Agreement.

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement. The terms of this Amendment shall supersede any inconsistent terms contained in the Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment in duplicate as of the date first written above. All signed copies of this Amendment shall be deemed originals. This Amendment is executed only in the English language.

MICROSOFT LICENSING, INC.

TOSHIBA AMERICA INFORMATION SYSTEMS, INC.

By (Signature)

By (Signature)

Name (Printed)

Name (Printed)

Title

Title

Date

Date

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Amendment #5 to the Microsoft OEM License Agreement with Minimum Commitment Payments, License No. 5000020157, dated May 1, 1997, between MICROSOFT CORPORATION and TOSHIBA AMERICA INFORMATION SYSTEMS, INC. (as assigned to MICROSOFT LICENSING, INC.).

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**EXHIBIT C1
OFFICE PRODUCTS**

PRODUCT TABLE(S)

Product #	Product Name And Version	Language Versions**	Applicable Additional Provisions	Royalty***	Basis (e.g. per copy or per system)	Billing Type****
Product #4269-01942	Microsoft® Office 97 Professional (Academic Edition)	EN	(01), (02), (03), (06), (09), (20), (30), (67), (88), (99)	US\$52.00	Per System	Type I
Product #4021-03485	Microsoft® Office 2000 Standard (Academic Edition) and with Teaching and Learning with Microsoft®	EN	(01), (02), (03), (06), (09), (20), (30), (67), (88), (99)	US\$52.00	Per System	Type I

** Language Version Key: Please refer to the Language Version Key in Exhibit L of the Business Terms Document for explanation of Language Version codes. Localized versions are licensed on an if and as available basis.

*** A Product is not licensed hereunder unless royalty rate(s) are indicated in the Product table and the Product is licensed for one or more Customer System(s) described in the Customer System section of this Exhibit C.

**** Billing Type: Type I - based on third party reports, Type II - based on COMPANY royalty reports, as specifically set forth in Section 3(a) of the Business Terms Document.

ADDITIONAL PROVISIONS KEY

(Note: Only those Additional Provisions applicable to licensed Product(s) may appear. Section numbering may not be consecutive.)

(01) The following provisions shall apply to all Products listed in this Exhibit C:

(a) The royalty rate(s) specified above require pre-installation of the Product. COMPANY shall preinstall the Product software solely in accordance with the installation instructions set forth in the "Preinstallation Guide", which is included in the preinstallation kit portion ("Preinstallation Kit") of the Product Deliverables. COMPANY may use the information, tools, and materials contained in the Preinstallation Kit solely to preinstall the Product software in accordance with the Preinstallation Guide and for no other purpose. Other than as specified in the Preinstallation Guide, COMPANY shall not modify the Product software, nor delete or remove any features or functionality without the prior written approval of MS in each instance.

(b) Notwithstanding anything to the contrary contained in Section 24 of the License Agreement or Section 2 of the Business Terms Document, COMPANY must distribute Product documentation with each Customer System distributed with Product software. A COA must be affixed to or accompany each copy of Product documentation. Company must distribute only one (1) copy of Product documentation with each Product version distributed.

(c) The royalty rate(s) specified above for Product(s) are based on COMPANY's agreement as follows:

(i) With respect to advertising that includes those Customer Systems distributed with Product(s), COMPANY shall refer to the relevant Product names and place accurate reproductions or depictions of the Product's front packaging in point of purchase materials, print advertising, packaging, and marketing collateral; and

(ii) Upon request by MS, COMPANY shall provide MS, or MS' designee, with the names of the end-user customers registering Customer Systems distributed with Product(s) in order that MS, or MS' designee, may send mailings to such customers or perform market research. COMPANY shall take all steps necessary to ensure that COMPANY's collection and provision of such information will comply with all applicable national data protection laws.

(02) The individual software programs which comprise the Product shall be distributed together with one Customer System and may not be distributed separately or licensed for use by more than one end-user. Information on licensing any of the components separately may be obtained from the Account Manager assigned to COMPANY.

(03) The royalty rate(s) specified above for Product(s) are additionally based on COMPANY's agreement as follows:

(a) COMPANY shall provide a link on COMPANY's support and marketing web site(s) to the web page for the Product at the website (<http://microsoft.com>) or as otherwise identified by MS from time to time.

(04) (a) COMPANY acknowledges that Products labeled "North America Only Version" are U.S. products which are subject to U.S. export laws, and therefore, may be distributed only within the U.S.A. and Canada. COMPANY agrees that if "North

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"America Only Version" appears on the Product packaging or other written materials, then the following applies: The Product is intended for distribution only in the United States and Canada. At the time of this License Agreement, export of the Product from the United States is regulated under "EI Controls" of the Export Administration Regulations (EAR, 15 CFR 730-799) of the U.S. Commerce Department, Bureau of Export Administration (BXA). A Commerce Department export license is required to export the Product outside of the United States or Canada. COMPANY agrees that it will not, directly or indirectly, export or re-export the Product (or portions thereof) to any country other than Canada, or to any person, entity or end user subject to U.S. Export restrictions without first obtaining a Commerce Department export license. You warrant and represent that neither the Commerce Department, Bureau of Export Administration nor any other U.S. federal agency has suspended, revoked or denied your export privileges.

(b) Additionally, COMPANY acknowledges that it has received and understands MS' then-current version of the "Notice to Licensees of Microsoft Export Restricted Products" which applies to this Product.

(09) This Product may *not* be distributed to India.

(20) Notwithstanding anything to the contrary contained in the License Agreement (including Exhibits and the Business Terms Document as incorporated therein), COMPANY may distribute Product(s) only with Customer Systems which are marketed and distributed exclusively under COMPANY's or COMPANY Subsidiaries' brand names, trade names and trademarks. The Product(s) may not be distributed with Customer Systems which are marketed or distributed under any name which includes any third party brand names, trade names or trademarks.

(30) Notwithstanding anything to the contrary contained in the License Agreement (including Exhibits and the Business Terms Document as incorporated therein), the Default Charge for this Product as described in Section 3(b)(v) of the Agreement/Business Terms Document shall be \$190.00 in addition to the royalty listed above for the Product.

(67) (a) Except for accurate informational references to and descriptions of the Product(s), accurate reproductions or depictions of the Product(s) front packaging, and as otherwise expressly set forth in the Marketing Materials Kit, if any, provided for the Product under this License Agreement ("Marketing Materials Kit"), MS expressly prohibits any use of the Product(s) contents (e.g., photographs, video, audio, screen shots, etc.) and associated packaging in connection with COMPANY's distribution of the Product(s), including, without limitation, point of purchase materials, marketing collateral, advertising, packaging, and promotional use.

(b) If COMPANY is provided a Marketing Materials Kit for Product under this License Agreement, then COMPANY is authorized to use materials contained in Marketing Materials Kit for promotional purposes provided that:

(i) Use is in compliance with the guidelines provided in Marketing Materials Kit;

(ii) COMPANY's promotion of Product(s) shall be restricted to the guidelines provided in Marketing Materials Kit and subsection (a) above;

(iii) Use is confined to the advertising and promotion of Customer Systems licensed for and distributed with Product; and

(iv) COMPANY agrees to cease use of the Marketing Materials Kit, and cease any promotion for Product(s), upon expiration or termination of COMPANY's license for this Product.

(88) Notwithstanding anything to the contrary in the License Agreement, this Product may only be distributed to and for use in the geographical boundaries of the United States and Canada.

(99) Notwithstanding any provision in this License Agreement to the contrary, the following provisions shall apply to this Product:

(a) **Customer System:** In addition to the other requirements for a Customer System set forth under this License Agreement, the Customer System must be a laptop (i.e., portable) computer.

(b) **Definitions:** the following terms shall have the following meanings for the purposes of this Exhibit C:

(i) "Accredited" means accredited by associations recognized by the U.S. Department of Education, a State Board of Education, or a Canadian provincial or territorial government.

(ii) "AER" or "Authorized Education Reseller" means a company that has executed a current Authorized Education Reseller Agreement with MSCORP and that has additionally entered into a written agreement with COMPANY/company ("AER/COMPANY/company Agreement") that expressly provides:

(A) that AER will comply with obligations identical to those imposed on COMPANY by Sections 20, 67, 99(a), 99(b), 99(c), 99(f)(ii), 99(f)(iii), 99(f)(iv), and 99(f)(v) of this Exhibit C; and

(B) that expressly provides that MS is a third party intended beneficiary of the AER/Company Agreement with rights to enforce such agreement.

(iii) "Qualified Institution" means an entity that satisfies each of the six/four requirements listed below and that is (A) a public or private K-12 (K-13 in the province of Ontario) Accredited school (including any such school offering a subset of K-12, e.g., 6-8, 9-12) organized and operated exclusively for educational purposes ("Educational Institutions"), or (B) a

district administrative office of any Educational Institution. The entity must be directly associated with an Educational Institution that:

- (1) requires students to use laptop computers and has chosen Microsoft Office Academic Edition Professional as part of the curriculum;
 - (2) requires their teachers to incorporate laptop computers and Microsoft Office Professional Academic Edition into their classroom teaching twenty-five percent (25%) of the time, on an average monthly basis;
 - (3) agrees to provide a list of Qualified Students to COMPANY or its AER;
 - (4) agrees that MS and/or COMPANY may upon reasonable notice verify the number of Qualified Students in that Educational Institution;
 - (5) has signed and submitted a Qualified Institution Participation Letter; and
 - (6) is located within the geographical boundaries of the U.S. or Canada.
- (iv) "Qualified Student" means students who are enrolled in a Qualified Institution and who are within the 4th through 12th grade.
- (v) "Financing Organization" means a corporation, school, or association validly organized and existing under the laws of a state or territory of the United States or Canada that in association with COMPANY, an AER, or Qualified Institution, has executed a letter in the form attached hereto as Addendum 1 to this Exhibit C ("Financing Letter"), and has agreed to provide financing to Qualified Students, their parents, or their legal guardians for the purpose of the student's acquisition of a Customer System.
- (v) "Qualified Person" means (A) a Qualified Institution, (B) a Qualified Student, (C) a parent or legal guardian of a Qualified Student, or (D) a Financing Organization that intends to acquire Computer Systems for the sole purpose of providing the Customer Systems to Qualified Students.
- (c) **Distribution:** COMPANY and its AERs may only distribute the Product (as part of a Customer System) to Qualified Persons in such a manner that only one Customer System is distributed to a Qualified Student, whether the Qualified Student acquires the Customer System him/herself, or whether it is acquired on their behalf by another Qualified Person. Notwithstanding anything to the contrary in the License Agreement, this Product is limited to distribution within the geographical boundaries of the U.S. and Canada.
- (d) **Royalty Reporting.** COMPANY shall report –by Product and Customer System – the royalties for the Product licensed in this Exhibit C separately from other Customer System royalties on its royalty reports to MS under this License Agreement.
- (e) **Authorized Replicator.** COMPANY may only acquire Product from a single designated Microsoft Authorized Replicator and COMPANY agrees to notify MS of the Authorized Replicator it has selected.
- (f) **Additional Conditions.** Notwithstanding any other provisions of this License Agreement, the royalty rate specified above for Product is conditioned on COMPANY's compliance with the following:
- (i) **Dedicated Full-Time Employee:** COMPANY shall designate an employee as COMPANY's primary contact person for all matters relating to COMPANY's performance of the obligations contained in this Additional Provision (99) ("COMPANY Contact"). The COMPANY Contact shall be available to promptly respond to MS in connection with the program outlined in this Exhibit C. The COMPANY Contact shall supervise and coordinate COMPANY'S support services which shall be available to respond promptly to all inquiries and support requests made by a Qualified Person regarding the Product and/or Customer Systems. COMPANY may change its COMPANY Contact upon prior written notice to Microsoft so long as the COMPANY Contact is a full-time COMPANY employee, and COMPANY uses reasonable efforts to maintain consistency in the COMPANY Contact position.
 - (ii) **Sales Reporting:** In addition to the other reporting requirements under this License Agreement, COMPANY and/or its AERs on behalf of COMPANY shall submit monthly reports to the MSCORP Educational Customer Unit at: Microsoft Education Customer Unit, Student Mobile Computing Program, One Microsoft Way, Redmond, WA 98052 which reports shall contain the following information: (A) the name of the Qualified Institutions whose Qualified Students have acquired Customer Systems (either directly or through another Qualified Person), (B) the number of Customer Systems distributed to Qualified Persons associated with that Qualified Institution and (C) any other information reasonably requested by MS, including, without limitation copies of the executed Financing Letter(s) and the Qualified Institution Participation Letters required in section (99)(b)(iii) and (v) above.

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Amendment #5 to the Microsoft OEM License Agreement with Minimum Commitment Payments, License No. 5000020157, dated May 1, 1997, between MICROSOFT CORPORATION and TOSHIBA AMERICA INFORMATION SYSTEMS, INC. (as assigned to MICROSOFT LICENSING, INC.).

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(iii) Notice to End Users: COMPANY agrees it shall be responsible to provide, and to cause its AERs to provide, clear notice to Qualified Persons prior to their acquiring the Product (including without limitation in all advertisements, marketing materials, point of sale materials, Customer System packaging and any other appropriate communication), that such Product:

- (A) is an Academic Edition of the Product; and
- (B) is to be used solely for educational purposes by a Qualified Student or Qualified Institution; and
- (C) ~~is not eligible for upgrades or updates~~ may not be transferred and would only be ~~be upgraded~~ eligible for upgrade if an Academic Edition Microsoft® Office Upgrade is made generally available, if ever, and
- (D) has an "academic use only" placard on hardware/recovery CD and jewel case.

(iv) Failure to Enforce License Agreement: MS may suspend COMPANY's license rights for the Product under this Exhibit C, refuse to fill COMPANY's orders for Product, and/or require the Authorized Replicator to refuse to fill COMPANY's orders if COMPANY fails to comply with any provision of this Exhibit C. Furthermore, COMPANY must pay to MS the Default Charge specified in Section (30) of this Exhibit for each Product distributed in violation of this License Agreement.

(v) Indemnity: COMPANY hereby indemnifies MS from and against all damages, costs, and attorneys' fees arising from claims or demands resulting from COMPANY's marketing and distribution of the Product, including, without limitation, claims that advertisements, marketing materials, point of sale materials, Customer System packaging, or other communication made by or from COMPANY are false or misleading.

CUSTOMER SYSTEMS

COMPANY's Customer Systems shall be the assembled computer systems described in the table below which (i) are configured for use only by a single user; and (ii) include at least a CPU, a motherboard, a power supply, and a case. For each Product which COMPANY chooses to license for distribution with the listed Customer System, the letter "S" or "C" in the relevant box indicates whether COMPANY is licensing the Product on a "per system" or "per copy" basis, respectively. New models may be added by agreement of the parties.

At COMPANY's option, for purposes of administrative convenience, COMPANY may designate models by "all models" or by "model line" or "series", (e.g. "Jaguar model line", "Jaguar Pro series", "Jaguar Pro 750 model line", "Jaguar Pro 950 series", etc.). Customer Systems defined by "all models" shall include all current and future models that meet the description specified in the table (e.g. "All models which include a CD-ROM drive, 500 Mb or larger hard disk drive, and sound card.") and utilize the listed microprocessor(s). Customer Systems defined by model line or series shall include all current and future models which include the designated model line or series name, (e.g. "Jaguar Pro model line" includes Jaguar Pro, Jaguar Pro 950, Jaguar Pro S, etc.; "Jaguar series" includes Jaguar, Jaguar Pro, Jaguar Pro 950, Jaguar S400, etc.; "Jaguar Pro 950 series" includes Jaguar Pro 950, Jaguar Pro 955, etc.).

Product Number Key: Please refer to the Product Number in the Product Table above. 1 = Office 97 Professional (Academic Edition). 2 = Office 2000 Standard (Academic Edition) and Teaching and Learning with Microsoft®

Royalty Basis Key: C = per copy; S = per system; if Product box is blank in the Customer System Table below, such Product is not licensed for distribution with the listed Customer System.

CUSTOMER SYSTEM TABLE

Model Name/Model Number	Processor	Product	Product	Product
NFS2060CDS	Pentium	S	S	
NFS2590CDT	Pentium	S	S	
NFS3020CT	Pentium	S	S	
NFS3110CT	Pentium	S	S	

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COMPANY hereby represents and warrants that the names and numbers indicated in the Model Name or Model Number column in the table above accurately denote the actual designation used by COMPANY to identify the listed models (on the Customer System case and in COMPANY's internal books and records).

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Addendum 1
to Exhibit C

[OEM LETTERHEAD]

[Date]

[Name of Finance Company]
[Name of Finance Company Contact]
[Address of Finance Company]

Re: Microsoft Office ~~97~~ Professional-Academic Edition Discount Program

Dear Sir or Madam:

[OEM] would like to thank you for participating in the Microsoft Office ~~97~~ Professional-Academic Edition Discount Program ("Discount Program"). The Discount Program is intended to make low cost laptop computers with Microsoft Office ~~97~~ Professional-Academic Edition available to students enrolled in schools participating in Microsoft learning programs that encourage the use of technology in the classroom. To team with [OEM] in providing low-cost laptop computers preinstalled with Microsoft Office ~~97~~ Professional-Academic Edition to students, you agree to the following conditions:

1. You acknowledge that [OEM] is offering [laptop name and model number] ("Laptop") to students in qualifying schools and/or school districts at discounted prices.
2. You acknowledge that the Laptops are only to be distributed to 4th through 12th grade students who are enrolled at certain schools that qualify for the Discount Program as determined by [OEM] or its resellers.
3. You acknowledge that each qualified student may only acquire (1) one Laptop.
4. You acknowledge that the Laptops come with certain pre-installed Microsoft software products ("Microsoft Products") and that these products are subject to the terms of an "End User License Agreement."
5. If you foreclose on any Laptop containing Licenses you agree to permanently remove and destroy all Microsoft "Academic Edition" software applications from the Laptop, and destroy the corresponding End User License Agreement, Certificate of Authenticity and back-up media relating to such products.
6. You may not retransfer in any manner any Microsoft "Academic Edition" applications software (e.g. Microsoft Office ~~97~~ Professional-Academic Edition). However, in the event the Laptop is preinstalled with a validly licensed Microsoft operating system (e.g. Windows 95, Windows 98, etc.), such operating system product preinstalled on such Laptop may be transferred as part of a permanent transfer of the Laptop, provided there is a valid End-User License Agreement for the operating system product and in accordance with its terms.

If you agree to the conditions of this letter agreement, please sign where indicated below and return to [Insert OEM contact info] or [Insert AER Contact info] at _____. If you have any questions, please contact _____ at _____. Thank you for your support of Microsoft products and furthering the education of today's youth.

Yours truly,

Agreed and Accepted:

By: _____

Its: _____

Date: _____

Addendum 2
to Exhibit C

Qualified Institution Participation Letter

(OEM Letterhead)

[Name of School]
[Name of School Contact]
[Address of School]

Re: Microsoft Office ~~97 Professional~~ Academic Edition Discount Program

Dear Sir or Madam:

We thank you for participating in a program that allows students to obtain at discounted prices laptop computers preinstalled with Microsoft Office ~~97 Professional~~ Academic Edition. Your efforts to empower students with access to their own laptop computers and your commitment to using computer technology in the classroom will help your students become our leaders in the future. To ensure the continued success of the program we ask that you review this letter outlining your responsibilities for participation in, and for maintaining the integrity of, the program. Prior to you or your students obtaining any laptop computers in connection with this program, we ask that you return to [insert OEM or AER contact info] a signed copy of this letter acknowledging your understanding and agreement.

As you are aware, the program is intended by our company and by Microsoft for students in the 4th through 12th grade that are fully matriculated into a qualifying accredited educational institution within the U.S. or Canada. To qualify for participation in the program, we ask that you be a public or private school (accreditation recognized by U.S. Department of Education State Board of Education, or Canadian provincial or territorial government) and that you agree to ensure that every qualifying student participating in the program has access to a laptop computer and to incorporate the laptop computers and Microsoft Office Academic Edition Professional as part of your curriculum. On average, twenty-five percent of your classroom teaching should incorporate the use of the variety of tools available in Microsoft Office Academic Edition Professional.

The laptop program is intended to further the education of the participating students and we want the program resources to stay focused on the children. As you can understand, we do not intend this program to be a general opportunity for those not qualifying for the program to obtain discounted computers and software, and if this is to occur the future of the program would be jeopardized. Therefore, we ask you to agree to fully cooperate with our company and Microsoft to prevent laptops preinstalled with Academic Edition software which are obtained for the program from circulating outside the program. To ensure that only eligible students obtain one (1) laptop computer preinstalled with Academic Edition software product, and no more, you agree to make available to [Insert OEM contact info, or insert authorized education reseller contact info] (and Microsoft if requested) a list of those students participating in the program. Finally, software piracy is a significant issue. In order to participate in the program, you agree that you will review the software end user licenses with your students and their parents to ensure everyone knows their rights to use the software. You should review with the participants, for example, that the use rights are outlined in the end user license agreement, and that the version of Microsoft Office ~~97 Professional~~ included with their laptops is an "Academic Edition" for use by students only for educational purposes and that this version may not be eligible for any upgrades. will not be eligible for any upgrades or updates.

To acknowledge qualification to participate and your agreement with the above, please sign where indicated below and return to _____ [OEM or AER]. If you have any questions, please contact _____ at _____. Thank you for your support of this program and furthering the education of today's youth.

Yours truly,
[OEM Name]

Agreed and Accepted:

By: _____ for _____
Insert Name of Educational Institution

Its: _____

Date: _____

**ATTACHMENT TO EXHIBIT(S) C1
APPLICATION PRODUCTS BACKUP CD OPTION**

- (1) This Attachment is not a license for MS products. COMPANY must maintain a valid OEM license agreement for all MS products included in whole or in part on the Backup CD (as defined below).
- (2) For Customer Systems which include a CD-ROM drive in the Customer System package, COMPANY may distribute, in lieu of a separate copy of the Product software as provided in Section 24(a)(ii)(B) of the License Agreement, a single CD-ROM which includes a single copy of the Product software for two or more of the Microsoft application product(s) distributed by COMPANY preinstalled on the hard disk of the Customer System ("Backup CD").
- (3) MS' authorization to distribute the Backup CD is subject to COMPANY's compliance with all of the following provisions:
- (a) The Backup CD shall comply with the specifications set forth in the then-current "Microsoft OEM Backup and Recovery CD-ROM Implementation Guide" (the "Implementation Guide"). MS shall have the right to modify the Implementation Guide from time to time and provide COMPANY updated versions thereof.
 - (b) COMPANY shall comply with all provisions of this License Agreement as well as any other MS license agreements which govern COMPANY's distribution of any of the MS application products included on the Backup CD, including, without limitation, the Additional Provisions of the applicable Exhibit(s) C for such MS products.
 - (c) The Backup CD shall include only Microsoft applications Product software; it shall not contain any non-Microsoft products.
 - (d) The Backup CD may be replicated only by an Authorized Replicator.
 - (e) The Backup CD may only be distributed inside the original Customer System package. COMPANY shall also include inside the Customer System package the APM specified by MS for distribution with the Backup CD in lieu of the APMs for the individual products.
 - (f) COMPANY shall submit the Backup CD master media to MS for review and approval. If approved, MS shall provide such master media to a single Authorized Replicator of COMPANY's choice. COMPANY shall not distribute the Backup CD before the date MS provides written notice to COMPANY approving distribution of such Backup CD.
 - (g) COMPANY shall pay MS a non-refundable, non-recoupable, administration fee of Five Thousand Dollars (US\$5,000.00) for each Backup CD specification approved by MS. Such amount shall be paid in accordance with the payment procedures specified in Exhibit N1 of the Business Terms Document.
- (4) MS shall have the right to terminate or restrict COMPANY's rights to replicate and/or distribute a Backup CD upon thirty (30) days prior written notice to COMPANY. Without limiting the generality of the preceding sentence, MS may terminate or restrict such replication and distribution rights by product(s), by market(s) to which Backup CD may be distributed, or by Customer System configuration.
- (5) COMPANY hereby indemnifies MS and its Suppliers from and against all damages, costs and attorneys' fees arising from any and all claims or demands in connection with the licensing, distribution, or use of the Backup CD, to the extent such claims could have been avoided by COMPANY's distribution of standard Product media.
- (6) COMPANY agrees to provide commercially reasonable end user support for the Product(s) licensed in the License Agreement which, in any event, shall be under terms and conditions at least as favorable to the end user as the terms under which COMPANY provides support for COMPANY's Customer Systems to end users generally. COMPANY agrees to provide MS with ninety (90) days prior written notice of any substantive change in COMPANY's support policy for the Product(s).
- (7) Provided COMPANY complies with all of the requirements stated above, COMPANY may include the Backup CD inside COMPANY's Customer System package without payment of additional royalties to MS.

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EXHIBIT C4
MICROSOFT PRESS PRODUCTS
PRODUCT TABLE(S)

Product #	Product Name And Version	Language Versions**	Applicable Additional Provisions	Royalty***	Basis (e.g. per copy or per system)	Billing Type****
{12559}	Microsoft Press® Training and Reference Suite for Microsoft® Word 97/Excel 97/Outlook™ Includes: Microsoft® Word 97/Microsoft Excel 97 In-Depth Training Starts Here™, and Running Microsoft® Outlook™	EN	(02), (13), (30), (99)	US\$3.00	Per System	Type II

** Language Version Key: Please refer to the Language Version Key in Exhibit L of the Business Terms Document for explanation of Language Version codes. Localized versions are licensed on an if and as available basis.

*** A Product is not licensed hereunder unless royalty rate(s) are indicated in the Product table and the Product is licensed for one or more Customer System(s) described in the Customer System section of this Exhibit C.

**** Billing Type: Type I - based on third party reports, Type II - based on COMPANY royalty reports, as specifically set forth in Section 3(e) of the Business Terms Document.

ADDITIONAL PROVISIONS KEY

(Note: Only those Additional Provisions applicable to licensed Product(s) may appear. Section numbering may not be consecutive.)

(02) The individual software programs or titles which comprise the Product shall be distributed together with one Customer System and may not be distributed separately or licensed for use by more than one end-user. Information on licensing any of the components separately may be obtained from the Account Manager assigned to COMPANY.

(13) (a) COMPANY's license to preinstall the Microsoft Press titles included in this Product in accordance with Section 2M(a) of the License Agreement and Section 3(e) of the Business Terms Document shall be limited to installation of the executable file(s).

(b) Notwithstanding anything to the contrary contained in Sections 2M(a), 2(c), 2(d), 2M(e) and 2M(f) of the License Agreement and Sections 3(c), 3(d) and 3(e) of the Business Terms Document, COMPANY shall distribute the Microsoft Press titles included in this Product on CD-ROM media and Product documentation, in each case as acquired from an Authorized Replicator, as part of each unit of Product distributed.

(30) The Default Charge for this Product as described in Section 3(b)(vi) of the Agreement Business Terms Document shall be thirty percent (30%) of the highest royalty rate for the Product stated in the Product table above.

(81) If a per copy royalty is specified in the Product table above, then, notwithstanding the provisions of Section 6(a) of the Business Terms Document Agreement, COMPANY may distribute not more than one (1) unit of Product separate from a Customer System to each existing authorized end user of any of COMPANY's single user computer system(s). COMPANY may distribute Product only as a mail order fulfillment item directly (without use of dealers or other intermediaries) to end users from COMPANY or an MS pre-approved fulfillment source. COMPANY shall pay the per copy royalty specified in the Product table above for each unit of Product distributed in accordance with this Additional Provision (81). If this Exhibit C is attached to an OEM License Agreement that includes minimum commitment payments, minimum commitment payments paid in accordance

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Amendment #5 to the Microsoft OEM License Agreement with Minimum Commitment Payments, License No. 500020157, dated May 1, 1997, between MICROSOFT CORPORATION and TOSHIBA AMERICA INFORMATION SYSTEMS, INC. (as assigned to MICROSOFT LICENSING, INC.).

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with Exhibit(s) B to the License-Agreement shall not be recoupable against royalties for units of Product distributed in accordance with this Additional Provision (B1). Product licensed on a per-system basis may only be distributed with the Customer Systems identified in this Exhibit C.

(99) If Customer System(s) licensed per system for this Product (Microsoft Press® Training and Reference Suite for Microsoft® Word 97/Excel 97/Outlook™) are also licensed per system for and distributed with Office 2000 Standard (Academic Edition) under this Agreement, then COMPANY shall be relieved of its obligation to pay MS the royalty for this Product for such Customer System(s), provided COMPANY does not distribute this Product with such Customer System(s).

CUSTOMER SYSTEMS

COMPANY's Customer Systems shall be the assembled computer systems described in the table below which (i) are configured for use only by a single user; and (ii) include at least a CPU, a motherboard, a power supply, and a case. For each Product which COMPANY chooses to license for distribution with the listed Customer System, the letter "S" or "C" in the relevant box indicates whether COMPANY is licensing the Product on a "per system" or "per copy" basis, respectively. New models may be added by agreement of the parties.

At COMPANY's option, for purposes of administrative convenience, COMPANY may designate models by "all models" or by "model line" or "series", (e.g. "Jaguar model line", "Jaguar Pro series", "Jaguar Pro 750 model line", "Jaguar Pro 950 series", etc.). Customer Systems defined by "all models" shall include all current and future models that meet the description specified in the table (e.g. "All models which include a CD-ROM drive, 500 Mb or larger hard disk drive, and sound card.") and utilize the listed microprocessor(s). Customer Systems defined by model line or series shall include all current and future models which include the designated model line or series name, (e.g. "Jaguar Pro model line" includes Jaguar Pro, Jaguar Pro 950, Jaguar Pro S, etc.; "Jaguar series" includes Jaguar, Jaguar Pro, Jaguar Pro 950, Jaguar S400, etc.; "Jaguar Pro 950 series" includes Jaguar Pro 950, Jaguar Pro 955, etc.).

Product Number Key: 1 = Microsoft Press® Training and Reference Suite for Microsoft® Word 97/Excel 97/Outlook™ Please refer to the Product Number in the Product Table above.

Royalty Basis Key: C = per copy; S = per system; if Product box is blank in the Customer System Table below, such Product is not licensed for distribution with the listed Customer System.

CUSTOMER SYSTEM TABLE

Model Name/Model Number	Processor	Product 1	Product 2	Product 3	Product 4	Product 5	Product 6
NFS2060CDS	Pentium	S					
NFS2590CDT	Pentium	S					
NFS3020CT	Pentium	S					
NFS3110CT	Pentium	S					

COMPANY hereby represents and warrants that the names and numbers indicated in the Model Name or Model Number column in the table above accurately denote the actual designation used by COMPANY to identify the listed models (on the Customer System case and in COMPANY's internal books and records).

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EXHIBIT D
BRAND NAMES AND TRADEMARKS

COMPANY AND COMPANY SUBSIDIARIES BRAND NAMES AND TRADEMARKS

If COMPANY Customer Systems are marketed, licensed, or distributed under COMPANY's or COMPANY Subsidiaries' brand names and trademarks which do not include COMPANY's name, these brand names and trademarks must be listed below:

<u>Brand Names & Trademarks</u>

THIRD PARTY BRAND NAMES AND TRADEMARKS

If COMPANY Customer Systems are marketed, licensed, or distributed by a third party under brand names and trademarks which do not include COMPANY's name, these brand names, trademarks and model names used for the Customer Systems by a third party must be listed below. Certain Products may not be marketed or distributed under any third party brand names or trademarks. Such Products are indicated in the applicable Exhibit(s) C.

<u>Brand Names & Trademarks</u>	<u>Customer System</u>	<u>Model Name Licensed by Third Party</u>

EXHIBIT 2
ADDITIONAL ADDRESSES

COMPANY:

BILL TO:

SHIP TO: