MINIMUM COMMITMENT PAYMENTS

with ACER AMERICA CORPORATION, a corporation of California.

1. DEFINITIONS.

(a) "Associated Product Materials" or "APM" shall mean a certificate of authenticity, an end-user license agreement, a MS product registration card, and/or other materials designated by MS from time to time which COMPANY may acquire from an Authorized Replicator.

(b) "Authorized Replicator Product" shall mean Product which is identified as such in the applicable Exhibit C.

(c) "Authorized Replicator" shall mean a third party approved by MS from which COMPANY may acquire Authorized Replicator Product reproduced by the Authorized Replicator in accordance with MS specifications. MS shall provide COMPANY with a list of Authorized Replicators and shall notify COMPANY from time to time of changes to this list.

(d) "COMPANY Subsidiary" shall mean a company listed in Exhibit X, in which, on a class by class basis, more than fifty percent (50%) of the stock entitled to vote for the election of directors is owned directly by COMPANY, but only so long as such ownership exists.

(e) "Customer System" shall mean COMPANY’s computer system product(s) described in the Exhibit(s). Unless otherwise specified in the applicable Exhibit C, a Customer System shall be an assembled computer system which (i) is configured for use only by a single user, and (ii) includes at least a CPU, a motherboard, a power supply, and a case.

(f) "Initial Term" shall mean the term of this Agreement as set forth in Section 9 as of the Effective Date. The Initial Term shall not include any extensions to the term unless expressly agreed in writing by the parties.

(g) "OEM Replication Product" shall mean Product which is identified as such in the applicable Exhibit C.

(h) "Product" shall mean the copyrighted and/or patented MS product(s) (including, where applicable, Product software in object code form, Product documentation, APM, Product packaging, and Product hardware) identified in the attached Exhibit(s) C as OEM Replication Product and/or Authorized Replication Product. Only those Product(s) for which royalty rate(s) and Customer System(s) are specified in the applicable Exhibit C are licensed under this Agreement.

(i) "Product Deliverables" shall mean (i) Product software in object code form; (ii) installation utilities; (iii) any single copy of Product documentation; and (iv) any other deliverables identified in Exhibit C or otherwise identified by MS as Product Deliverables.

(j) "Release" shall mean a release of Product which MS designates as a change in the digit(s) at the left of the decimal point in the Product version number.

(k) "Update" shall mean a release of Product which MS designates as a change in the digit(s) at the right of the decimal point in the Product version number.

(l) "Version Release" shall mean a release of Product which MS designates as a change in the 3rd digit in the Product version number.

2. LICENSE GRANT.

(a) MS grants COMPANY the non-exclusive, worldwide license rights to: (i) install on no more than one (1) copy of Product software on each Customer System hard disk or ROM ("Preinstalled Product Software"); and (ii) directly or indirectly distribute to end users (in addition to Preinstalled Product Software) no more than one (1) copy each of Product software and Product documentation with each Customer System. Except as necessary to install Product software, COMPANY may not reproduce Authorized Replication Product or Product Deliverables.

(b) With respect solely to OEM Replication Product, MS grants COMPANY the additional rights to: (i) reproduce, in accordance with specifications provided by MS, Product software in object code form, Product documentation, and Product packaging for distribution pursuant to Sections 2(a)(i); and (ii) reproduce Product names and Product trademarks on Product packaging, labels, and documentation in accordance with specifications provided to COMPANY from time to time by MS.

(c) COMPANY may grant to COMPANY Subsidiaries the foregoing rights subject to the terms and conditions set forth in this Agreement. COMPANY hereby guarantees each of its COMPANY Subsidiaries’ compliance with the terms and conditions of this Agreement. At least thirty (30) days prior to exercising any license rights or receiving any confidential information under this Agreement, each COMPANY Subsidiary shall execute and deliver to MS the COMPANY Subsidiary Agreement in the form provided in Exhibit X.

(d) COMPANY acknowledges that Authorized Replicator may refuse to ship Product due to circumstances beyond those which, in MS opinion, COMPANY will be able to distribute in compliance with the terms of this Agreement. COMPANY further acknowledges that MS may suspend COMPANY’s license rights hereunder and/or require Authorized Replicator to refuse to ship COMPANY’s orders if COMPANY fails to comply with any provision of this Agreement or if Product licensed to COMPANY is available other than inside Customer System package.

(e) COMPANY shall include APM with Product software distributed by COMPANY if specified as required in Exhibit C for the Product. If COMPANY elects not to distribute Product documentation with any Customer System distributed with Product software, it is mandatory that COMPANY make Product documentation available to end users as a user order fulfillment form directly from COMPANY or a MS designated fulfillment source. Product documentation shall not be available through any other COMPANY distribution channel.

(f) COMPANY’s license shall extend to Update Releases and Version Releases. MS may increase royalties for new Version Releases subject to the following maximum amount: Maximum royalty = R * (R + N*1.5%), where R is the initial royalty and N is the number of months that have elapsed from the Effective Date until MS delivers the new Version Release. COMPANY’s license shall not extend to Product Releases.

(g) This Agreement does not include technical support by MS to COMPANY, its distributors, dealers or end users. Technical support may be available from MS or an MS subsidiary pursuant to a separate agreement.

3. PAYMENT AND REPORTING.

(a) COMPANY agrees to pay MS the royalties in Exhibit(s) C. Royalties exclude any changes by the Authorized Replicator for units of Product or APM ordered by COMPANY. Royalties also exclude any taxes, duties, fees, excess or tariffs imposed on any of COMPANY’s or COMPANY’s Subsidiaries activities in connection with this Agreement. Such charges, if any, shall be paid by COMPANY.

(b) COMPANY further agrees to pay MS the minimum commitment payments in Exhibit B. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties. To the extent that royalties exceed the cumulative minimum commitment payments, COMPANY shall pay MS royalties.

(c) If a change in the royalty rate affects any royalty that has been paid under this Agreement, COMPANY shall pay MS an additional amount not exceeding the royalty rate affected by the change.

(d) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(e) The royalty rate for each Product(s) included in Exhibit B shall be reduced to zero at the end of the royalty period for such Product(s).

(f) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(g) If any Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(h) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(i) The royalty rate for each Product(s) included in Exhibit B shall be reduced to zero at the end of the royalty period for such Product(s).

(j) If a change in the royalty rate affects any royalty that has been paid under this Agreement, COMPANY shall pay MS an additional amount not exceeding the royalty rate affected by the change.

(k) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(l) The royalty rate for each Product(s) included in Exhibit B shall be reduced to zero at the end of the royalty period for such Product(s).

(m) If any Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(n) If any Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(o) The royalty rate for each Product(s) included in Exhibit B shall be reduced to zero at the end of the royalty period for such Product(s).

(p) If any Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(q) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(r) The royalty rate for each Product(s) included in Exhibit B shall be reduced to zero at the end of the royalty period for such Product(s).

(s) If any Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(t) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(u) The royalty rate for each Product(s) included in Exhibit B shall be reduced to zero at the end of the royalty period for such Product(s).

(v) If any Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(w) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(x) The royalty rate for each Product(s) included in Exhibit B shall be reduced to zero at the end of the royalty period for such Product(s).

(y) If any Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.

(z) COMPANY agrees to pay MS the minimum commitment payments for each Product(s) in Exhibit B. If a Product(s) included in Exhibit B is no longer available from MS, then the royalty rate for such Product(s) shall be reduced to zero.
documents necessary to enable MS to claim a U.S.A. Foreign Tax Credit. COMPANY may deduct such taxes from the amount owed MS and shall pay them to the appropriate tax authority. COMPANY will make certain that any taxes withheld are remitted to the extent permitted by the applicable law.

(d) COMPANY agrees to make consolidated (i.e., on behalf of COMPANY and COMPANY Subsidiaries) quarterly royalty reports and payments to MS as specified in Exhibit N within thirty (30) days after the end of each calendar quarter, and thirty (30) days after termination or expiration for the final full or partial quarter.

(i) In the event that COMPANY's quarterly report is not received by MS within the above-specified thirty-day period, COMPANY authorizes MS to bill COMPANY, and COMPANY agrees to pay MS, based on reports submitted to MS by the Authorized Representative(s), for the subject period and at MS options, for all subsequent periods during the term of this Agreement. MS' billing of COMPANY based on reports submitted by the Authorized Representative(s) shall not relieve COMPANY of any reporting or payment obligations under the Agreement.

(ii) COMPANY's reports shall be certified as complete and correct and signed by a duly authorized officer or director of COMPANY. A copy of COMPANY's report shall be sent to MS electronically or via facsimile in addition to the original copy sent in accordance with Exhibit N. COMPANY shall make such reports even if no royalties are due for such quarter. COMPANY's royalty reports shall be in the royalty report format attached as Exhibit R or other format as MS may provide from time to time. COMPANY's royalty reports shall specify royalties for each Product and language version described in Exhibit(s) C.

(c) A ten percent (10%) late charge and a one percent (1%) monthly late charge will be assessed on all amounts that are past due, including receipts for foreign taxes withheld.

(f) No royalty shall accrue to MS for Product software (i) used by COMPANY solely for testing systems; (ii) shipped to replace defective copies or defective media (including hard disk drives) for copies of Product software previously licensed under this Agreement; (iii) shipped as a backup copy in addition to Preinstalled Product Software in accordance with Section 2(1)(i); or (iv) used for demonstrations to prospective customers if clearly marked "For Demonstration Purposes Only" (see to exceed one hundred (100) copies per Product).

(g) COMPANY shall provide MS with a copy of its U.S.A. state resale exempt certificate, if applicable, with that Agreement when it is returned for signature by MS.

4. DELIVERY AND LIMITED WARRANTY

(a) For each Product licensed hereunder, MS shall deliver Product Deliverables to COMPANY.

(b) MS warrants that Product software conforms to the specifications contained in Product documentation.

(i) If the Product software fails to conform to such specifications, then within thirty (30) days after MS' delivery to COMPANY of Product Deliverables for each release of Product licensed hereunder, COMPANY may report such deviations to MS in writing. If COMPANY reports any deviations from Product specifications prior to acceptance, then MS shall have sixty (60) days to correct such deviations. Upon delivery of a corrected release of Product to COMPANY, COMPANY shall have thirty (30) days in which to reject the Product software for failure to meet specifications.

(ii) If COMPANY does not report deviations from Product software specifications within the applicable thirty (30) day period described in Section 5(b)(i) above, or if COMPANY distributes the Product to a customer for revenue, COMPANY shall be deemed to have accepted the Product. If MS fails to correct deviations from specifications prior to acceptance, then as COMPANY's sole remedy COMPANY may terminate this Agreement with respect to each release of Product.

(c) MS shall have no liability for failure to deliver Product Deliverables by any particular date. COMPANY shall not distribute for revenue any release of a Product until MS delivers Product Deliverables to COMPANY.

5. DEFENSE OF INFRINGEMENT CLAIM

(a) MS agrees to defend COMPANY against, and pay the amount of any adverse final judgment (or settlement to which MS consents) resulting from, third party claims (hereinafter "Infringement Claims") that (i) the Product infringe any copyright enforceable in any Infringement Claims (defined in Section 5(d), below); or (ii) the Product contains or trademark(s) ("Mark") infringe any trademark rights enforceable in any such Infringement Claims; provided MS is notified promptly in writing of the Infringement Claim and has sole control over its defense or settlement, and COMPANY provides reasonable assistance in the defense of the same.

(b) In the event MS receives information concerning an intellectual property infringement claim (including an Infringement Claim related to the Product(s) or Mark), MS may at its expense, without obligation to do so, either (i) procure for COMPANY the right to continue to distribute the alleged infringing Product or Mark, or (ii) replace the Product or Mark so as not to infringe, and in which case, COMPANY shall thereafter cease distributions of the alleged infringing Product or Mark.

(c) MS shall have no liability for any intellectual property infringement claim (including an Infringement Claim based on COMPANY's import, distribution, or use of any Product or Mark after MS notice to COMPANY that MS should cease manufacture, distribution, or use of such Product or Mark due to such a claim; or (ii) continuation of a Product with a non-MS product, program, or data; or (iii) adaptation of a Product from COMPANY to make a non-infringing Product. For all claims described in this Section 5(c), COMPANY agrees to indemnify and defend MS from and against all damages, costs and expenses, including reasonable attorneys' fees, incurred by COMPANY in defending any suit, action or proceeding brought by COMPANY or any third party arising out of any such infringement claim.

(d) MS shall have no obligation to COMPANY for any Infringement Claims which arise outside the geographical boundaries of the United States, Canada, Australia, Japan, the European Union, Sweden, Norway, and Finland ("Infringement Jurisdictions").

6. LICENSE RESTRICTIONS

(a) COMPANY shall distribute Product(s) only with those Customer System(s) listed on Exhibit(s) C for the particular Product(s) and only with the Customer System package. In addition to MS's other remedies, for each copy of the Product(s) that is available other than inside the Customer System package, MS may charge COMPANY an additional royalty equal to twenty percent (20%) of the royalty rate stated in Exhibit(s) C for the Product. COMPANY shall pay such additional royalty within thirty (30) days of receipt of MS invoice. COMPANY shall not remove or modify the package content of Authorized Replication Product or APM.

(b) COMPANY shall comply with the additional provisions, if any, provided in Exhibit(s) C with respect to Product.

(ii) COMPANY shall not (A) contractually obligate (e.g., by contract, invoice, or other written instrument) all distributors, dealers and others in its entire distribution channels to comply with the foregoing; (B) deliver copies of such contracts (or relevant portions thereof) to COMPANY upon request; (C) promptly remove or modify the distribution of Product to any such distributor, dealer, or other distribution channel which does not comply with the foregoing; and (D) cooperate with MS in investigating instances of distribution of Product which does not comply with the foregoing.

(iv) Notwithstanding anything to the contrary contained in Section 2(a) of this Agreement, in lieu of Product software acquired from an Authorized Replication, COMPANY may distribute a single backup copy of Preinstalled Product Software which may be on a CD-ROM disc reproduced by COMPANY ("Backup CD") which may be used in conjunction with COMPANY's dedicated user support program ("Acer CPR"). The Backup CD may include backup copies of non-MS products that are distributed by COMPANY preinstalled on the hard disk of the Customer System. The Acer CPR support program shall include a BIOS check to verify that the computer system to which the Product files will be downloaded from the Backup CD is a COMPANY Customer System. Product files on the Backup CD shall be encrypted such that the Product files cannot be downloaded or used without decryption using Acer CPR utilities. The Backup CD shall indicate that it is for hard drive recovery only, and the label of the Backup CD shall indicate the Acer CPR shall function only on other Computer Systems. The Acer CPR manual shall show or (ii) otherwise make known or allow use of any Acer computer that the Backup CD is for hard drive recovery only on designated Acer computer systems. The Acer CPR support program shall function only as a pop-up or splash screen for the end user that (i) the software is provided only for purpose of

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Microsoft OEM License Agreement With Minimum Commitment Payments dated March 1st 1997 Between MICROSOFT CORPORATION and ACER AMERICA CORP.
This Agreement, and any rights or obligations hereunder, shall not be assigned or sublicensed by COMPANY (by contract, merger, operation of law, or otherwise) except to COMPANY Subsidiaries as provided in Section 2(c).

9. TERM OF AGREEMENT.

(a) The term of this Agreement shall run from the Effective Date until May 31, 1995, unless extended or terminated earlier by the parties in accordance with applicable provisions of this Agreement.

(b) If the license for any Product is extended beyond the expiration date stated in Section 9(a), the term of this Agreement shall be deemed to have been extended to run until the expiration date of each Product license, unless terminated earlier by the parties in accordance with applicable provisions of this Agreement.

10. DEFAULT AND TERMINATION.

(a) This Agreement may terminate if any of the following events of default occur:

(i) if either party materially fails to perform or comply with any provision of this Agreement;

(ii) COMPANY manufactures or distributes any MS Product which is not properly licensed under this Agreement or another valid agreement with MS or an MS licensee; or

(iii) if Product is available other than under the COMPANY's Customer System package. (v) if COMPANY becomes insolvent, enters bankruptcy, reorganization, composition or other similar proceedings under applicable laws, whether voluntary or involuntary, or admits in writing its inability to pay its debts, or makes or attempts to make an assignment for the benefit of creditors; or

(vi) upon termination of any other agreement between COMPANY and MS due to default by COMPANY.

(b) Terminations due to breach of Sections 6(a)(i), 6(b), 8, 13, 14(a), 14(c) or (d) agreements Exhibit S shall be effective upon notice to the defaulting party. Terminations due to Section 10(a)(iv) shall be effective upon notice or as soon thereafter as is permitted by applicable law. At the option of the non-defaulting party, termination due to a breach of any provision of this Agreement may be effective upon notice to the defaulting party if such party has received two (2) or more previous notices of default during the term of this Agreement (whether or not such previous defaults have been cured). In all other cases, termination shall be effective thirty (30) days after notice of termination to the defaulting party if the defaults have not been cured within such thirty (30) day period.

(c) In the event of COMPANY's default, MS may terminate this Agreement in its entirety or as to any individual Product(s). Termination of this Agreement as to any particular Product(s) will not affect the terms and conditions of this Agreement as they apply to the other Product(s) licensed under this Agreement.

11. OBLIGATIONS UPON TERMINATION.

(a) Within ten (10) days after termination or expiration of this Agreement, COMPANY shall return to MS all units of Product for which a royalty has been paid and all Product Deliverables. COMPANY and each COMPANY Subsidiary may, however, retain ten (10) units of each Product for support purposes only.

(b) Termination of this Agreement as a result of COMPANY's default shall result in acceleration of COMPANY's obligation to pay all sums COMPANY contracted to pay under this Agreement, including all minimum commitment payments as described in Exhibit B.

(c) Upon termination or expiration of this Agreement, COMPANY shall cease distribution of Product and all of COMPANY's license rights hereunder shall cease. Sections 5, 12, 13, 14, 15, and 16 of this Agreement and Sections 5 and 6 of Exhibit S, if applicable, shall survive termination or expiration of this Agreement.

12. LIMITATION OF LIABILITY AND REMEDY.

(a) MS's total liability to COMPANY under this Agreement, including Section 5, shall be limited to one hundred percent (100%) of the amount having actually been paid by COMPANY to MS under Sections 3, COMPANY releases MS from all obligations, liability, claims or demands in excess of the limitation.

(b) The rights and remedies granted to COMPANY under Sections 4 and 5 constitute COMPANY's sole and exclusive remedy against MS, its officers, agents and employees for negligence, excusable delay, breach of warranty, express or implied, or for any default whatsoever relating to the condition of the Product or MS' duties to correct any deviations from specifications.

(c) Sections 4 AND 5 CONTAIN THE ONLY WARRANTIES MADE BY MS. ANY AND ALL OTHER WARRANTIES IF ANY KIND

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ACER 004444
WHATEVER, INCLUDING THOSE FOR NON-INFRINGEMENT, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE SHALL BE EXPRESSLY EXCLUDED. MS MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY THAT THE PRODUCT WILL OPERATE PROPERLY IN COMBINATION WITH ANY CUSTOMER SYSTEM(S). COMPANY AGREES MS SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, ECONOMIC OR PUNITIVE DAMAGES EVEN IF MS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(i) As partial consideration for the rights granted to COMPANY hereunder, COMPANY agrees not to (A) use or (B) bring, produce, assist or participate in any judicial, administrative or other proceedings of any kind against MS or its assignees (including without limitation OEM customers and end users) for the infringement of COMPANY Patents (as defined below) on account of the manufacture, use, sale or distribution, during the Term, if any, of the COMPANY Product. (As defined above), of:

1. Any releases of the Product(s) licensed to COMPANY hereunder, except as otherwise provided in (ii), below; or

2. Future releases of the Product(s), or replacement or successor products to the Product, to the extent such future release or replacement or successor product(s) use or embody inventions used or embodied in a version of such Product(s) licensed to COMPANY hereunder.

(ii) "COMPANY Patents" as used in this subsection (i)(d) means all patents throughout the world, other than designs patents or the equivalent, owned or acquired by COMPANY or inventions made prior to termination or expiration of such an Agreement, or for which COMPANY has or acquires rights prior to the termination or expiration of this Agreement. The "Immunization Period" shall commence upon the first to occur and shall terminate upon the later to expire, of any of the COMPANY Patents. (As defined above, "Company" and "COMPANY".

(iii) In the event that MS provides COMPANY a new release of a Product under this Agreement, and COMPANY determines that such new release or embodiment inventions not used or embodied in a prior release of the Product licensed to COMPANY hereunder, COMPANY may elect not to license such new release or embodiment inventions by notifying MS in writing within sixty (60) days after its receipt or prior to shipment of such new release or embodiment inventions. COMPANY's election under this paragraph shall not affect COMPANY's obligations above with respect to any prior release(s) of the Product licensed hereunder.

13. NONDISCLOSURE AGREEMENT.

COMPANY shall keep confidential the Product Deliverables, the terms and conditions of this Agreement, and other non-public information and know-how disclosed to COMPANY by MS. However, MS may disclose the terms and conditions of this Agreement in confidence to its immediate legal and financial consultants as required in the ordinary course of COMPANY's business. Notwithstanding the foregoing, COMPANY shall have no obligation under this Section 3 with respect to any information that COMPANY can conclusively determine was independently developed by COMPANY without use or access to confidential information or materials.

14. AUDITS AND INSPECTIONS.

(a) During the term of this Agreement, COMPANY agrees to keep all records and books of account and all books and customer relations relating to the results of Product delivered under this Agreement and each Product licensed sufficient to substantiate the number of copies of Product and the number of Customer Systems distributed by or for COMPANY. COMPANY shall maintain on COMPANY premises such records for itself and for each COMPANY Subsidiary which exercises rights under this Agreement.

(b) In order to verify statements made by COMPANY and COMPANY's compliance with the terms of this Agreement, MS may cause an audit to be made of COMPANY's and/or COMPANY'S Subsidiary's books and records and such statements to verify compliance with the terms of this Agreement, or (ii) an inspection to be made of COMPANY's and/or COMPANY'S Subsidiary's books and records and such statements to verify compliance with the terms of this Agreement.

(c) COMPANY agrees to provide MS designated audit or inspection team access to the relevant records and facilities of COMPANY and/or COMPANY'S Subsidiaries.
The following Exhibits are part of this Agreement:

- Exhibit A
- Exhibit B
- Exhibit(s) C
- Exhibit N
- Sample End User License Agreement
- Minimum Commitments
- Product and Customer Systems
- Addresses
- Promissory Note/Guarantee
- Royalty Report
- Source Code
- Shipments to Third-Party MS Licensees
- COMPANY Subsidiaries
- Additional Country/Region Provisions

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above. All signed copies of this Agreement shall be deemed originals.

MICROSOFT CORPORATION

By (Signature)

Name (Print) Business Manager

Title Date 3/21/95

ACER AMERICA CORPORATION

By (Signature)

Name (Print) Sr. Director Product Mgmt

Title Date 3/21/95

NOTICE:
This is an OEM distribution license. Product can only be distributed with a Customer System, as specified in Sections 1(e) and 6(a).

CONFIDENTIAL
Microsoft OEM License Agreement With Minimum Commitment Payments dated March 15, 1995 between MICROSOFT CORPORATION and ACER AMERICA CORPORATION.

HIGHLY CONFIDENTIAL UNDER
PROTECTIVE ORDER Microsoft
13 Cases, J.C.P. No. 408, CA
Superior Court, San Francisco

ACER 004446
EXHIBIT A: SAMPLE END USER LICENSE AGREEMENT

IMPORTANT - READ CAREFULLY BEFORE OPENING SOFTWARE PACKETS AND/OR USING THE SOFTWARE. By opening the sealed packet(s) containing the software and/or using the software, you indicate your acceptance of the following Software License Agreement.

SOFTWARE LICENSE AGREEMENT

(Single User Product)

This Software License Agreement, including the Warranty and Special Provisions set forth in the appendices or separate booklet(s) included in this package, is a legal agreement between you ("you", "your") and the manufacturer ("PC Manufacturer") of the computer system purchased with this software product. By opening the sealed software packet(s) and/or using the software, you are agreeing to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, promptly return the unopened software packet(s) and the accompanying items (including any Microsoft hardware, manuals, and labels on or attached thereto) to the place from which you purchased them.

1. GRANT OF LICENSE. This License Agreement permits you to use one copy of the Microsoft software programs ("SOFTWARE") on a single computer. The SOFTWARE is "sold" to you as a means of obtaining a license to use the SOFTWARE for the term of the SOFTWARE. Provided you comply with the terms of this Agreement, you may make one copy of the SOFTWARE for backup or archival purposes, or to transfer the SOFTWARE on a permanent basis to another hard disk.

2. ADDITIONAL RIGHTS (MAKE LANGUAGE SOFTWARE). If the SOFTWARE includes a Microsoft language program, you have a royalty-free right to reproduce and distribute executable files created using the SOFTWARE. If the language program is a BASIC or COBOL compiler product, then the PC Manufacturer grants you a royalty-free right to reproduce and distribute the executable modules of the SOFTWARE provided that you: (a) distribute the executable modules only in conjunction with and as part of your own product (your product) and not as a separate program; (b) do not use the language program in your product to create your own executable modules; (c) do not include any Microsoft documentation or source code with your executable modules; (d) do not distribute the language program with your executable modules; and (e) agree to indemnify, defend, and hold harmless the PC Manufacturer and its suppliers from and against any claims, demands, or actions that arise from the use of your product, if any, or from your use of the SOFTWARE.

3. COPYRIGHT. The SOFTWARE (including any images, "applets", icons, phonograms, phonographs, videos, audio, text, and any other copyrighted material) and any accompanying documentation is owned by Microsoft Corporation or its suppliers and is protected by United States copyright laws and international treaty provisions and all other applicable laws. Therefore, you must treat the SOFTWARE like any other copyrighted material (e.g., a book or musical recording). Use of the SOFTWARE on a network server or in the accompanying documentation as required during execution of the software program. The source modules are licensed to you, not sold, to use, copy, or distribute the SOFTWARE, unless otherwise provided in the Warranty and Special Provisions for your country.

4. SOFTWARE MEDIA. You may install the SOFTWARE on a single computer and use it only on that computer. You may not use the SOFTWARE on any other computer or server. You may not loan or rent the SOFTWARE to anyone else. You may not use the SOFTWARE on a network server or in the accompanying documentation as required during execution of the software program. The source modules are licensed to you, not sold, to use, copy, or distribute the SOFTWARE, unless otherwise provided in the Warranty and Special Provisions for your country.

5. U.S. GOVERNMENT RIGHTS. The SOFTWARE and documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in subparagraph (a)(2) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (b)(3) and (4) of the Commercial Computer Software - Restricted Rights at 48 CFR 12.227-7 or applicable Manufacturer in Microsoft Corporation, One Microsoft Way, Redmond, WA 98052-6399.

6. APPENDIX. The SOFTWARE and documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in subparagraph (a)(2) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (b)(3) and (4) of the Commercial Computer Software - Restricted Rights at 48 CFR 12.227-7 or applicable Manufacturer in Microsoft Corporation, One Microsoft Way, Redmond, WA 98052-6399.

7. CUSTOMER REMEDIES. This License Agreement grants you a nonexclusive, nontransferable license to use the SOFTWARE on a single computer. You may not sell or distribute the SOFTWARE to anyone else. You may not use the SOFTWARE on a network server. This License Agreement grants you a nonexclusive, nontransferable license to use the SOFTWARE on a single computer. You may not sell or distribute the SOFTWARE to anyone else. You may not use the SOFTWARE on a network server.

8. LIMITATION ON LIABILITY. The maximum extent permitted by applicable law, Microsoft Corporation and its suppliers shall not be liable for any damages whatsoever, including, without limitation, lost profits, lost data, or any consequential losses arising in any way from the use of or inability to use the SOFTWARE. In no event shall Microsoft Corporation or its suppliers be liable for any damages whatsoever (including, without limitation, lost profits, business interruption, or lost data) arising in any way from the use of or inability to use the SOFTWARE, even if Microsoft Corporation or its suppliers have been advised of the possibility of such damages. In no event shall Microsoft Corporation or its suppliers be liable for any damages whatsoever (including, without limitation, lost profits, business interruption, or lost data) arising in any way from the use of or inability to use the SOFTWARE.

9. SPECIAL PROVISIONS. This Software License Agreement and Warranty are governed by the laws of the State of Washington, U.S.A.

CONFIDENTIAL

Microsoft OEM License Agreement with Minimum Commitment Payments dated March 15, 1995 between MICROSOFT CORPORATION and ACER AMERICA CORPORATION.

ACER 004447
**EXHIBIT B**

**MINIMUM COMMITMENT PAYMENTS**

<table>
<thead>
<tr>
<th>Date</th>
<th>Payment Amount (US$)</th>
<th>Cumulative Amount of Payments for Period (US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signing of this Agreement (payment due upon signing)</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>May 31, 1995 (&quot;FIRST PAYMENT DATE&quot;)</td>
<td>$1,460,000</td>
<td>$1,460,000</td>
</tr>
<tr>
<td>Total First Period Minimum Commitment</td>
<td>$1,460,000</td>
<td>$1,460,000</td>
</tr>
</tbody>
</table>

Except the payment due on signing, if any, payments shall be due as specified in Section 3(d) of the Agreement.
EXHIBIT C

MICROSOFT OFFICE
(DIRECT CHANNEL DISTRIBUTION)

*If royalty rate and Customer System are not specified for a particular Product, then such Product is not licensed under this Agreement.

**Language Key: A = Arabic, CE = Cyrillic Enabled, CH = Chinese, CZ = Czech, D = German, DA = Danish, DU = Dutch, E = Spanish, EE = Eastern and Central European, EN = English, FI = Finnish, FR = French, HAN = Hangul, HB = Hebrew, HUN = Hungarian, I = Italian, K = Kanji, N = Norwegian, POL = Polish, POR = Portuguese, PRC= PRC Simplified Chinese, RU = Russian, SW = Swedish, TH = Thai, TU = Turkish

<table>
<thead>
<tr>
<th>Product Name and Version</th>
<th>Product Type</th>
<th>Language Version(s)</th>
<th>APM Required</th>
<th>Applicable Additional Provisions</th>
<th>Customer System Number</th>
<th>Royalty/Basis (per system or per copy)*</th>
<th>Non-English Additional Royalty</th>
<th>Added by Amendment Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microsoft Office Version 4.2 for Windows® Standard Version</td>
<td>Authorized Replication</td>
<td>EN</td>
<td>Yes</td>
<td>(a), (b), (c)</td>
<td>1, 2</td>
<td>US$175.00 per system</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

"PER SYSTEM" ROYALTY CALCULATION

For Product(s) which specify "per system" in the Royalty/Basis column in the above table:

(1) COMPANY agrees to pay MS a royalty, at the applicable rate set forth above, for each full or partial Customer System distributed or placed in use by or for COMPANY.

(2) In addition, COMPANY agrees to pay MS the Non-English Additional Royalty specified above for each full or partial unit of non-English versions of Product licensed or distributed by COMPANY. Non-English versions are provided on an if and when available basis.

(3) Where multiple "Releases" (i.e., Update Releases, Version Releases or Product Releases), language versions, or media versions (e.g., MS-DOS and MS-DOS ROM) of a Product are licensed for the same Customer Systems, COMPANY may distribute Product software only as Preinstalled Product Software in one language and Release for use on each such Customer System. COMPANY shall pay MS the royalty applicable to the Release and language version shipped.

(4) Any Customer System distributed without Product shall bear the base royalty for the most recent Release of Product licensed on a per system basis for distribution with such Customer System.

"PER COPY" ROYALTY CALCULATION

For Product(s) which specify "per copy" in the Royalty/Basis column in the above table:

(1) COMPANY agrees to pay MS a royalty, at the applicable rate set forth above, for each full or partial unit of Product licensed or distributed by COMPANY.

(2) In addition, COMPANY agrees to pay MS the Non-English Additional Royalty specified above for each full or partial unit of non-English versions of Product licensed or distributed by COMPANY. Non-English versions are provided on an if and when available basis.

(3) Where multiple "Releases" (i.e., Update Releases, Version Releases or Product Releases), language versions, or media versions (e.g., MS-DOS and MS-DOS ROM) of a Product are licensed for the same Customer Systems, COMPANY may distribute Product software only as Preinstalled Product Software in one language and Release for use on each such Customer System.

CONFIDENTIAL
Page 5

Microsoft OEM License Agreement With Minimum Commitment Payments dated March 15, 1995 between MICROSOFT CORPORATION and ACER AMERICA CORPORATION.
CUSTOMER SYSTEMS

COMPANY's Customer Systems shall be defined to be COMPANY's current and future single user computer systems described below.

<table>
<thead>
<tr>
<th>Customer System Number</th>
<th>Microprocessor Type</th>
<th>Maximum Number of Microprocessors†</th>
<th>Model(s)†††</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>80486†</td>
<td></td>
<td>AcerPower models 5695 and 5096 that are equipped with a hard drive</td>
</tr>
<tr>
<td>2.</td>
<td>Pentium†</td>
<td></td>
<td>AcerPower models 5710, 9714 and 9136 that are equipped with a hard drive</td>
</tr>
</tbody>
</table>

† Intel microprocessors, or non-Intel microprocessors that execute the same instruction sets.
†† If no maximum number of processors is specified, the maximum number of processors shall be one (1).
††† If no models are specified, Customer Systems shall include all models that utilize the specified processor.

COMPANY BRAND NAMES AND TRADEMARKS:

If COMPANY markets, licenses, or distributes COMPANY Customer Systems under brand names and trademarks other than COMPANY's name, those brand names and trademarks are listed below:

1. 
2. 
3. 
4. 

ADDITIONAL PROVISIONS KEY

(a) Use of Product content for marketing/advertising purposes may be subject to restrictions which MS will provide.
(b) The software is licensed as a single Product, and its component parts may not be separated for inclusion with more than one computer for use by more than one user at any time.
(c) Notwithstanding any provision in the Agreement to the contrary, the following provisions shall apply to this Product (Office for Windows®):

(i) This Product may be distributed with licensed Customer Systems marketed under the Acer brand name (“Office Customer System”) only directly to end user customers by COMPANY, i.e., the “Acer Direct Response Channel,” or to business end user customers by COMPANY’s distributors, value added resellers, system integrators, corporate account resellers, mail order companies and other companies that do not display computer systems for sale predominately to the general public (collectively, “Acer Distributors”), i.e., the “Acer Distributor Channel.” COMPANY acknowledges and agrees that Office Customer Systems may not be distributed with this Product through any of the following channel segment customers of COMPANY as defined in International Data Corporation’s “US PC Distribution Channels Forecast, 1994-1998” (IDC #9544): (A) Computer Specialty Retailers, (B) Computer Superstores, (C) Mass Merchants, (D) Consumer Electronic Retailers, (E) Office Product Dealers, or (F) Others (e.g., distributors that sell directly to end users and liquidators, home shopping networks and on-line buying services).

(ii) COMPANY shall not distribute any computer hardware and software combination that is identical to an Office Customer System except for absence of the Product unless such combination is designated with a different model number. COMPANY acknowledges and agrees that MS may impose additional restrictions on the distribution of this Product at any time upon written notice to COMPANY.

(iii) COMPANY shall provide Preinstalled Product Software on all hard drives of Customer Systems with which COMPANY distributes Product. In addition to Preinstalled Product Software, COMPANY may provide one (1) additional copy of Product software only either (A) as included on a Backup CD in accordance with Section 6(a)(iv), or (B) as a fulfillment item to end user purchasers of such Customer Systems for use as a backup copy of the Product.

(iv) COMPANY shall provide a copy of the related Product documentation with all Customer Systems with which COMPANY distributes Product, provided however, COMPANY may exclude Product documentation relating to the “Visual Basic” component of this Product.

CONFIDENTIAL
(v) COMPANY shall not distribute Office Customer Systems with this Product directly to any Acer Distributor unless and until COMPANY and such Acer Distributor have entered into a written agreement that requires the Acer Distributor to comply with the restrictions of this Additional Provision (c), and expressly provides that MS is a third party intended beneficiary with rights to enforce such written agreement.

(vi) (A) The license for this Product shall expire as of the earlier of May 31, 1995, or the date the Agreement terminates or expires ("Product Expiration Date"), unless terminated earlier by MS in accordance with Additional Provision (e)(vi)(B), or extended in accordance with Additional Provision (e)(vi)(C).

(B) Prior to the Product Expiration Date, MS shall have the right to terminate the license for this Product, with or without cause, immediately upon written notice to COMPANY. COMPANY understands and acknowledges that (1) COMPANY may be required to terminate immediately distribution of Office Customer Systems with this Product and that there may be no phase out period. In such event, COMPANY shall require all Acer Distributors to terminate distribution of Office Customer Systems with this Product within thirty (30) days thereafter.

(c) If COMPANY has complied with all terms and conditions for distribution of this Product (and MS has not terminated the Product license prior to the Product Expiration Date), COMPANY may give written request to MS within ten (10) days prior to the Product Expiration Date to extend the Product license for a period of ten (10) additional months, i.e., through March 31, 1996, under one of the following options which COMPANY shall specify in its request:

Option 1: COMPANY's quarterly minimum commitment obligation shall be Two Million One Hundred Eighty Seven Thousand Five Hundred Dollars (US$2,187,500) for the period that begins as of the Effective Date of the Agreement and ends June 30, 1995 (to be allocated between calendar quarters as the parties may mutually agree), and for each subsequent calendar quarter of the extended term, and the per system royalty rate shall be One Hundred Seventy Five Dollars (US$175.00); or

Option 2: COMPANY's quarterly minimum commitment obligation shall be Two Million One Hundred Eighty Seven Thousand Five Hundred Dollars (US$2,187,500) for the period that begins as of the Effective Date of the Agreement and ends June 30, 1995 (to be allocated between calendar quarters as the parties may mutually agree), and increased to Three Million Five Hundred Thousand Dollars (US$3,500,000) for each subsequent calendar quarter of the extended term, and the per system royalty rate shall be reduced to One Hundred Forty Dollars (US$140.00) effective as of June 1, 1995.

Product royalties for licensed Office Customer Systems distributed by COMPANY between March 15, 1995 and May 31, 1995 shall be applied against COMPANY's minimum commitment obligation for the period that begins as of the Effective Date of the Agreement and ends June 30, 1995.

MS shall accept such request and prepare a formal amendment to the Agreement unless within ten (10) days after receipt of COMPANY's written request, MS notifies COMPANY that such request is declined based on a good faith determination that continued distribution of this Product with Office Customer Systems will have a significant adverse effect on retail sales of the Product by MS.

(D) If the license for this Product is extended in accordance with Additional Provision (c)(vi)(C), during such extended license term:

(1) MS shall have the right to terminate the license for this Product upon thirty (30) days prior written notice if MS determines in good faith that continued distribution of this Product with Office Customer Systems will have a significant adverse effect on retail sales of the Product by MS.

(2) COMPANY may terminate the license for this Product as of September 30, 1995 by providing MS with thirty (30) days prior written notice.

(E) MS and COMPANY agree to enter into good faith negotiations for the licensing of the successor to this Product, commonly referenced within MS as "Office 95." If the parties fail to reach agreement for the licensing of Office 95 after a reasonable period of negotiation, but in no event later than thirty (30) days after a licensing proposal has been offered to COMPANY by MS, COMPANY may terminate the license for this Product upon thirty (30) days prior written notice to MS.

(F) Except as provided in Additional Provision (e)(vi)(B), if either party terminates the license for this Product in accordance with Additional Provision (e), COMPANY's minimum commitment for the reporting period in which the date of such termination occurs shall be prorated for the duration that has elapsed since the beginning of such reporting period, and COMPANY's minimum commitment for subsequent reporting period(s), if any, shall be terminated.

Exhibit to the License Agreement dated March 15, 1995, between MICROSOFT CORPORATION and ACER AMERICA CORPORATION.

CONFIDENTIAL.

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Microsoft OEM License Agreement With Minimum Commitment Payments dated March 15, 1995 between MICROSOFT CORPORATION and ACER AMERICA CORPORATION.

ACER 004451
Reports and Payments:

If COMPANY is a U.S.A. based company, payments and royalty reports shall be made to:

If sent by U.S.A. Mail
MICROSOFT CORPORATION
Attention: OEM Finance
P.O. Box 84808
Seattle, WA 98124-6108

If sent by private courier:
MICROSOFT CORPORATION
Attention: OEM Finance
Remittance Processing
Wholesale Lockbox
6801 South 180th
Tukwila, WA 98188

Fax copies of royalty reports to:
OEM Finance Fax: (206) 936-5298

If COMPANY is based outside the U.S.A., COMPANY agrees to make such payments and royalty reports as follows:

Payment by wire transfer to:
Citibank N.A.
399 Park Avenue
New York, NY 10043
U.S.A.
ABA 021000089

Royalty reports to:
MICROSOFT CORPORATION
One Microsoft Way
Redmond, WA 98052-6399
U.S.A.

Regarding:
Microsoft International OEM Collections
Account #38468231

or to such other address or account as MS may specify from time to time. COMPANY agrees to specify the MS License Agreement number and the MS invoice number, if any, with respect to which payment is made.
# ROYALTY REPORT

**EXHIBIT R**

Royalty Report for [COMPANY]

Reporting Period: ___________ to ___________.

Microsoft License #

## PER-SYSTEM PRODUCT

<table>
<thead>
<tr>
<th>CPU Type</th>
<th>A Royalty Rate</th>
<th>B Number of Systems</th>
<th>C (= A x B) Royalty Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>System 1:</td>
<td>$</td>
<td></td>
<td></td>
</tr>
<tr>
<td>System 2:</td>
<td>$</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Reported:** $__________________

**PRODUCT TOTAL:** $__________________

## PER-COPY PRODUCT

<table>
<thead>
<tr>
<th>Per Copy</th>
<th>A Royalty Rate</th>
<th>B Units Shipped</th>
<th>C (= A x B) Royalty Due</th>
</tr>
</thead>
</table>

**Total Royalty Reported:** $__________________

**Total Payment Enclosed:** $__________________

If this is your initial royalty report, please indicate date of first Product shipment for revenue: ___________.

The undersigned hereby certifies that he/she is an officer or director of [COMPANY] and that this report is complete and correct.

__________________________  
(Signature)

__________________________  
(Print)

__________________________  
(Title)

__________________________  
(Date)

Telephone Number: (__________________________)

---

HIGHLY CONFIDENTIAL UNDER PROTECTIVE ORDER Microsoft 543-046, No. 408, CA Superior Court, San Francisco
COMPANY Subsidiaries authorized to exercise rights under this Agreement are:

[Table with blank columns for Name, Address, Telephone, and Fax]

COMPANY shall provide MS at least thirty (30) days prior written notice of the name and address of each additional COMPANY Subsidiary that COMPANY wishes to add to Exhibit X. The addition to Exhibit X of any such additional COMPANY Subsidiaries shall be deemed accepted by MS unless MS sends written notice of rejection to COMPANY within thirty (30) days of MS' receipt of COMPANY's written request. Each COMPANY Subsidiary shall execute and submit to MS a COMPANY Subsidiary Agreement in the form provided below prior to exercising any rights under the Agreement.

(To be reprinted on Company Subsidiary Letterhead)

COMPANY SUBSIDIARY AGREEMENT

For good and valuable consideration, [COMPANY], a corporation of [State], hereby covenants and agrees with Microsoft Corporation, a Washington U.S.A. corporation that COMPANY Subsidiary will comply with all obligations of [COMPANY], a corporation of [State], a company of [COMPANY] pursuant to that certain License Agreement dated [Date] (the "Agreement").

COMPANY Subsidiary acknowledges that its agreement herein is a condition for COMPANY Subsidiary to exercise any of the rights sublicensed by COMPANY to COMPANY Subsidiary pursuant to the terms of the Agreement. COMPANY Subsidiary shall be jointly and severally liable to MS for all obligations related to COMPANY Subsidiary's exercise of license rights or receipt of confidential information under the Agreement, including but not limited to the payment of royalties for Product.

Capitalized terms used herein and not otherwise defined shall have the same meaning as in the Agreement.

IN WITNESS WHEREOF, COMPANY Subsidiary has executed this agreement as of the date set forth below. All signed copies of this Agreement shall be deemed originals.

[Signature]
Name (Print)
Title
Date

MICROSOFT CORPORATION

By
Name (Print)
Title
Date

(Name of COMPANY)

By
Name (Print)
Title
Date

HIGHLY CONFIDENTIAL UNDER PROTECTIVE ORDER Microsoft IP CASES, NO. 03-04464 CPI
Superior Court, San Francisco

ACER 004455