

AMENDMENT NUMBER 1
Amendment Date: May 1, 1995
to MICROSOFT OEM LICENSE AGREEMENT
between MICROSOFT CORPORATION, a Washington, U.S.A. Corporation
and ACER AMERICA CORPORATION, a Corporation of California
Agreement Effective Date: March 15, 1995
MICROSOFT LICENSE # A009-5089

SIGNED ORIGINAL

RECITALS

A. Whereas, MS and COMPANY have entered into the Microsoft OEM License Agreement referenced above (the "Agreement"), pursuant to which COMPANY may request to extend the Agreement on the terms and conditions described in Additional Provision (c)(vi) of Exhibit C to the Agreement; and

B. Whereas, COMPANY desires to extend the Agreement on the terms and conditions described as "Option 1" in Additional Provision (c)(vi)(C) of Exhibit C to the Agreement; and

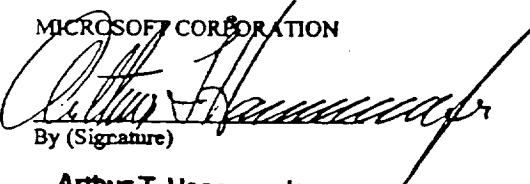
C. Whereas, MS has not determined that continued distribution of the Microsoft Office Product with Office Customer Systems would have a significant adverse effect on retail sales of such Product by MS, and thus is willing to permit such extension;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained in the Agreement and this instrument (the "Amendment"), effective as of the Amendment Date indicated above, the Agreement is hereby amended as follows:

1. Section 9(a) is hereby amended and replaced with the following:
"(a) The term of this Agreement shall run from the Effective Date until March 31, 1996, unless terminated earlier by the parties in accordance with applicable provisions of this Agreement."
2. Exhibit B of the Agreement is hereby amended and replaced with the attached Exhibit B.
3. Exhibit C of the Agreement is hereby amended and replaced with the attached Exhibit C.

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 CORPORATION

By (Signature)
Arthur T. Hannum, Jr.
Name (Printed)
Business Manager
Title
July 10, 1995
Date

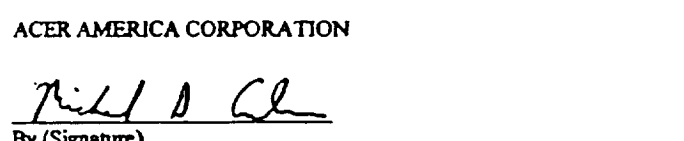
ACER AMERICA CORPORATION

By (Signature)
MICHAEL D. CULVER
Name (Printed)
SR. DIRECTOR PRODUCT MANAGEMENT
Title
6/30/95
Date

EXHIBIT
3
Culver
7/2/95

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Superior Court, San Francisco

(iii) COMPANY shall provide Preinst 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 as follows:

(A) For licensed Customer Systems assembled to order (designated by the letters "ATO" within the Acer part number) and distributed through the Acer Direct Response Channel, COMPANY may provide such Product software either (1) on diskette or CD media in accordance with Section 6(a)(i), or (2) as included on a Backup CD in accordance with Section 6(a)(iv), or (3) as a fulfillment item directly to end user purchasers of such Customer Systems; and

(B) For all other licensed Customer Systems, COMPANY may provide such Product software either (1) as included on a Backup CD in accordance with Section 6(a)(iv), or (2) 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

(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) [Provision(s) deleted due to extension of Agreement per Amendment No. 1]

(B) [Provision(s) deleted due to extension of Agreement per Amendment No. 1]

(C) [Provision(s) deleted due to extension of Agreement per Amendment No. 1]

(D) Notwithstanding any provision in this Agreement to the contrary, beginning June 1, 1995:

(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 days prior written notice to MS.

(F) If either party terminates the license for this Product in accordance with Additional Provision (c)(vi)(D) or (c)(vi)(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. In such event, COMPANY shall require all Acer Distributors to terminate distribution of Office Customer Systems with this Product by the date the termination of the license for this Product is to be effective.

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EXHIBIT B
MINIMUM COMMITMENT PAYMENTS

First Period of This Agreement

<u>Date</u>	<u>Payment Amount (US\$)</u>	<u>Cumulative Amount of Payments for Period (US\$)</u>
Signing of this Agreement (payment due upon signing)	\$0.00	\$0.00
May 31, 1995	\$1,460,000.00	\$1,460,000.00
June 30, 1995	\$727,500.00	\$2,187,500.00
September 30, 1995	\$2,187,500.00	\$4,375,000.00
December 31, 1995	\$2,187,500.00	\$6,562,500.00
March 31, 1996	<u>\$2,187,500.00</u>	<u>\$8,750,000.00</u>
Total First Period Minimum Commitment	\$8,750,000.00	\$8,750,000.00

The payment due on signing, if any, and the minimum commitment for May 31, 1995, shall be due and payable to MS thirty (30) days after their respective dates of invoice. All other payments described above shall be due as specified in Section 3(d) of the Agreement.

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**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 = Hangeul, 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

Product Name and Version	Product Type	Language Version(s)	APM Required	Applicable Additional Provisions	Customer System Number*	Royalty/Basis (per system or per copy)*	Non-English Additional Royalty	Added by Amendment Number
Microsoft Office Version 4.2 for Windows® Standard Version	Authorized Replication	EN	Yes	(a), (b), (c)	1, 2, 3, 4, 5, 6, 7	US\$175.00 per system	N/A	Original Agreement

"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.

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EXHIBIT C

(Continued)

CUSTOMER SYSTEMS

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

<u>Customer System Number</u>	<u>Microprocessor Type</u>	<u>Maximum Number of Microprocessors††</u>	<u>Model(s)†††</u>
1.	80486†		AcerPower models 5695, 569C, 5096 and 509C that are equipped with a hard drive
2.	Pentium†		AcerPower models 5710, 9714 and 9136 that are equipped with a hard drive
3.	80486†		AcerNote 788 (Acer part no. 91.AA201.019), AcerNote 789 (Acer part no. 91.AA201.020), AcerNote 353 (Acer part no. 91.AA202.003), AcerNote 354 (Acer part no. 91.AA201.004)
4.	80486†		Desktop (A1GX MB) (Acer part no. 91.AA600.ATOMS042)
5.	Pentium†		Desktop (V12LC MB) (Acer part no. 91.AA601.ATOMS042)
6.	Pentium†		Desktop (V30 MB) (Acer part no. 91.AA605.ATOMS042)

† 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.

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