

AMENDMENT

Amendment No. 1
to the License Agreement
Between
GATEWAY 2000 and MICROSOFT CORPORATION
Dated May 1, 1995, Contract No. 4976-5198

**SIGNED
ORIGINAL**

This Amendment ("Amendment") to the License Agreement ("Agreement") between MICROSOFT CORPORATION ("MS") and GATEWAY 2000, Inc. ("GATEWAY") dated May 1, 1995, is made and entered into this 14th day of June, 1995.

1. The attached Exhibit C shall replace the existing Exhibit C.
2. The attached Exhibit C1 and C2 shall be added to the Agreement.
3. Except as provided herein, all terms of the Agreement shall remain in full force and effect. In the event of inconsistencies between the Agreement and this Amendment, the terms and conditions of the Amendment shall be controlling.

This Amendment shall be null and void unless signed by GATEWAY and returned to MS within thirty (30) days of receipt by GATEWAY.

IN WITNESS WHEREOF, the parties have executed this Amendment to the Agreement as of the date set forth above. All signed copies of this Amendment to the Agreement shall be deemed originals. This Amendment does not constitute an offer by MS. This Amendment shall be effective upon execution on behalf of GATEWAY and MS by their duly authorized representatives.

MICROSOFT CORPORATION

[Signature]
By _____

JAN E. CLAESOU
Name (Print)

Director, OEM
Title

Oct. 25, 1995
Date

GATEWAY 2000

[Signature]
By _____

William M. Elliott
Name (Print)

Vice President & General Counsel
Title

Oct 19, 1995
Date

**PLAINTIFF'S
EXHIBIT**

tabbles

3664

Comes v. Microsoft

06/30/95 51151884 DOC

CONFIDENTIAL

**GOVERNMENT
EXHIBIT**

119

PERQAD-Approved, N.J.

MSV 0004322
CONFIDENTIAL

MS-PCA 1104688

EXHIBIT C
WINDOWS 95 / DESKTOP AND PORTABLE OPERATING SYSTEMS PRODUCTS
(For MDA Accounts)

Product Number Name and Version	Language Versions ****	Applicable Additional Provisions	Per System Royalty**	Per Copy Royalty**	Non-English Additional Royalty	Added by Amendment Number										
1. Windows® 95 operating system	EE, EN, FF, D, DU, J, E, POR, RU, SW, DA, L, PRC	(a), (b), (d), (e)	<p>Windows 95 shipments as Percentage of shipments of Windows Products (as defined in Additional Provision (b))</p> <table border="0"> <tr> <td><20%</td> <td>US\$47.50</td> </tr> <tr> <td>> 20% and <=40%</td> <td>US\$46.00</td> </tr> <tr> <td>>40% and <=60%</td> <td>US\$44.00</td> </tr> <tr> <td>>60% and <=80%</td> <td>US\$43.00</td> </tr> <tr> <td>>80%</td> <td>US\$42.00***</td> </tr> </table> <p>Estimated monthly volume for Windows Products: 100,000</p>	<20%	US\$47.50	> 20% and <=40%	US\$46.00	>40% and <=60%	US\$44.00	>60% and <=80%	US\$43.00	>80%	US\$42.00***	Royalty US\$75.00	US\$ 6.00	
<20%	US\$47.50															
> 20% and <=40%	US\$46.00															
>40% and <=60%	US\$44.00															
>60% and <=80%	US\$43.00															
>80%	US\$42.00***															
				Estimated monthly volume for Windows Products: N/A												

The above per system royalty rates for Windows 95 reflect the \$20.00 maximum allowable discount which GATEWAY may earn under its "Windows 95-Based PC Market Development Agreement (the "MDA"). The per system royalty rates shall remain effective until the end of the month in which MS notifies GATEWAY of its final MDA results and actual discounts. Effective the beginning of the next month, GATEWAY shall pay royalty rates equal to the above rates plus any unearned MDA discounts as ultimately determined under the MDA. (For example, if MS determines that GATEWAY's actual MDA discounts are \$15.00 and notifies GATEWAY on November 15, 1995, then GATEWAY's per system royalty rates shall increase \$5.00 effective December 1, 1995.)

***Notwithstanding the Per System Royalties in the table, until January 1, 1996, the royalty for the English language version of Windows 95 shall be at the "80%" shipment level. Thereafter, royalties shall reflect actual percentage shipment levels.

The availability of this discount price until January 1, 1996 is granted in recognition for, among other things, GATEWAY's efforts to provide industry leadership in the following areas over and above those provided for in the MDA:

- Promoting the PC 95 hardware standard and moving its component suppliers to such.
- Providing an extensive commitment to worldwide preparedness for Windows 95 service and support for its customers.
- Promoting and visibly endorsing Windows 95 to the media, analysts, customers and other industry contacts.

2. Windows® for Workgroups operating system Version 3.11	EN, FF, D, DU, J	(b), (c), (d), (f)	Royalty US\$19.65	Royalty US\$N/A	US\$3.40	
3. Windows® operating system Version 3.11	EN, FF, DU, D, J	(b), (d), (f)	Royalty US\$17.00	Royalty US\$N/A	US\$4.00	
4. MS-DOS® operating system Version 6.22	EN, FF, D, DU, J	(d), (f), (g)	Royalty US\$14.00	Royalty US\$N/A	US\$2.50	

5. Enhanced Tools for MS-DOS® 6.22 Version 1.02	EN	(d), (f)	Royalty US\$2.00	Royalty US\$/N/A	US\$	
6. Windows NT™ Workstation Version 3.51 (i86/Pentium™ Compatible Version)	EN, DU, FF, D, J	(b), (f), (d)	Royalty US\$ N/A Beginning January 1, 1996, estimated quarterly volumes of Windows NT-Workstation: 20,000	Uplift Royalty US\$20.00*	US\$12.00	—

*The royalty for Windows NT Workstation Version 3.51 shall be calculated by adding the above \$20.00 Per Copy Uplift Royalty plus the applicable Windows 95 Per System royalty.

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

****Language Key: A = Arabic, CE = Cyrillic Enabled, CZ = Czech, D = German, DA = Danish, DU = Dutch, E = Spanish, EE = Eastern and Central European, EN = English, FF = France's French, FI = Finnish, FR = non-France's French, HB = Hebrew, HUN = Hungarian, I = Italian, J = Japanese, N = Norwegian, POL = Polish, POR = Portuguese, RU = Russian, SW = Swedish, TH = Thai, TR = Turkish. In addition to the language versions specified in the Product table above, GATEWAY may receive Product Deliverables for the Licensed Product in available language versions listed in the Language Key by sending a written request to the attention of OEM Accounting Services at the address listed in Exhibit N for royalty reports.

EXHIBIT C
(Continued)

"PER SYSTEM" ROYALTY CALCULATION

For Product(s) which specify "per system" in the Basis column in the Customer System table below:

1. GATEWAY agrees to pay MS the royalty set forth above for each Customer System distributed or placed in use by or for GATEWAY.
2. In addition, GATEWAY agrees to pay MS the Non-English Additional Royalty specified above for each unit of non-English versions of Product distributed or placed in use by GATEWAY.
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, GATEWAY may distribute only one copy of Product software in addition to one copy of Preinstalled Product Software in one language and Release for use on each such Customer System. GATEWAY shall pay MS the royalty applicable to the Release and language version shipped.
4. Any Customer System licensed on a per system basis for more than one Update Release or Version Release of a Product, but distributed without Product, shall bear the base royalty for the most recent Release of Product licensed.
5. Notwithstanding anything to the contrary contained in Section 3 of the Agreement, if in any three monthly reporting periods (whether or not consecutive), GATEWAY's reported shipments of the applicable Customer Systems are twenty percent or more below GATEWAY's estimated monthly volume specified for per system shipments of the Product in the Product table above, GATEWAY and MS may negotiate an increase in the per system royalty rate(s) to reflect GATEWAY's lower shipment volumes. If, for any reason, MS and GATEWAY are unable to agree upon new royalty rate(s) within thirty (30) days after the date GATEWAY's royalty report is due for the third such low-volume month, GATEWAY's per system royalty rate(s) for the Product shall increase by twenty percent (20%). Such increased royalty rate(s) shall be in effect for the remainder of the term of the Agreement commencing with the monthly reporting period following the third low-volume month. Provided, however, if GATEWAY's reported monthly volume returns to or exceeds the original estimated monthly volume for any three (3) consecutive months thereafter, GATEWAY's per system royalty rate(s) shall be restored to the rate(s) specified in the Product table above commencing with the monthly reporting period following such three consecutive months.
6. In the event GATEWAY's actual shipments of Product exceed the estimated monthly volume by fifty (50) percent for any three consecutive months, then MS shall negotiate in good faith lower royalties commencing with the month after any such third consecutive month.

"PER COPY" ROYALTY CALCULATION

For Product(s) which specify "per copy" in the Basis column in the Customer System table below:

1. GATEWAY agrees to pay MS the royalty rates set forth above for each unit of Product licensed or distributed by GATEWAY.
2. In addition, GATEWAY agrees to pay MS the Non-English Additional Royalty-specified above for each unit of non-English versions of Product distributed or placed in use by GATEWAY.
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, GATEWAY may distribute only one copy of Product software in addition to one copy of Preinstalled Product Software in one language and Release for use on each such Customer System.
4. Notwithstanding anything to the contrary contained in Section 3 of the Agreement, if in any three monthly reporting periods (whether or not consecutive), GATEWAY's reported shipments of the Product with the applicable Customer Systems are twenty percent or more below GATEWAY's estimated monthly volume specified for the Product in the Product table above, GATEWAY and MS may negotiate an increase in the per copy royalty rate(s) to reflect GATEWAY's lower shipment volumes. If, for any reason, MS and GATEWAY are unable to agree upon new royalty rate(s) within thirty (30) days after the date GATEWAY's royalty report is due for the third such low-volume month, GATEWAY's per copy royalty rate(s) for the Product shall increase by twenty percent (20%). Such increased royalty rate(s) shall be in effect for the remainder of the term of the Agreement commencing with the monthly reporting period following the third low-volume month. Provided, however, if GATEWAY's reported monthly volume returns to or exceeds the original estimated monthly volume for any three (3) consecutive months thereafter, then GATEWAY's per copy royalty rate(s) shall be restored to the rate(s) specified in the Product table above commencing with the monthly reporting period following such three consecutive months.

EXHIBIT C
(Continued)

GATEWAY BRAND NAMES AND TRADEMARKS:

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

Brand Names & Trademarks

1.
2.

If GATEWAY Customer Systems are marketed, licensed, or distributed by a third party under brand names and trademarks which do not include GATEWAY's name, those brand names and trademarks and model names used for the Customer Systems by a third party are listed below. GATEWAY may not distribute Windows 95 with GATEWAY Customer Systems that are marketed or distributed under any third party brand names or trademarks.

Brand Names & Trademarks

Customer System

Model Name Used by Third Party

1.
2.

ADDITIONAL PROVISIONS KEY - WINDOWS 95

(a) (1) Product deliverables include an OEM Pre-installation Kit ("OPK"). The royalty rate(s) specified above require pre-installation of Windows 95 as the "default" operating system on each Customer System distributed with Windows 95 (i.e., Windows 95 will set up and execute unless the user configures the Customer System otherwise). GATEWAY shall preinstall the Product software solely in accordance with the installation instructions set forth in the "OPK User's Guide" included in the OPK. Product software may not be distributed in encrypted form except as expressly provided in the OPK User's Guide. GATEWAY may use the information, tools and materials contained in the OPK solely to preinstall the Product software in accordance with the OPK User's Guide and for no other purpose.

(2) Other than as specified in the OPK User's Guide, GATEWAY shall not modify the Product software, nor delete or remove any features or functionality without the written approval of MS in each instance. If GATEWAY wishes to include its name and/or logo on the Product software "start-up" screen, GATEWAY will do so only in the location and manner as designated in the OPK User's Guide. Otherwise, GATEWAY shall not alter the content or sequence of the Product software "start-up", initialization or other screens.

(3) If GATEWAY enters registration information on behalf of end users in the boxes provided for the on-screen end user registration process for the Product software, GATEWAY shall not enter its own name or make any other false or fictional registrations. GATEWAY may not (i) relieve end users of their obligations to enter Certificate of Authenticity ("COA") registration numbers in the on-screen end user registration process and to reply to on-screen end user license agreement inquiries or (ii) insert COA registration numbers or reply to end user license agreement inquiries for or on behalf of end users.

(4) If and only if GATEWAY distributes the Product software solely as Preinstalled Product Software (i.e., without a back-up copy of the Product on CD, diskette, magnetic tape, or other external media) with any Customer System, then GATEWAY shall also preinstall the Microsoft Create System Disk Tool together with the back-up diskette images ("CAB" files) contained in the OPK on the hard disk drive of such Customer System to enable the end user to make a back-up copy of the Product software according to the terms of the EULA. Diskette images may only be used with the Microsoft Create System Disk Tool. GATEWAY may not distribute, use, or authorize the use of the Microsoft Create System Disk Tool or diskette images except as provided in this Additional Provision or as specified in the OPK.

(5) Notwithstanding the definition of "Product Release" in this Agreement, Windows 95 (and any subsequent releases of Windows which may be designated by a change in the calendar year -- e.g., Windows 96, 97, 98, etc.) shall be deemed to be a Product Release.

(6) GATEWAY agrees that it will not distribute Windows 95 until MS advises its OEM customers generally that Customer Systems with Windows 95 may be distributed.

(7) Notwithstanding Section 2, GATEWAY must distribute Product documentation with each Customer System distributed with Product Software. A COA must be affixed to each copy of Product documentation.

(8) Any EULA for the Product distributed by GATEWAY must be identical to the on screen EULA presented to the end user during Product setup.

(9) Windows 95 includes Microsoft At Work fax transmission software, Remote Access Service, and Remote Procedure Calls, each of which provide methods for stand-alone and networked computers to send and receive messages with certain security levels. French law (Decree 92-1358 of December 1992) generally prohibits the use in France of such technology, unless special approvals are granted. Accordingly, Windows 95 has been designed to disable the security in each of these features when the default locale assigned during installation is France.

(10) Notwithstanding anything to the contrary contained in this Agreement, GATEWAY may distribute Windows 95 only with Customer Systems which are marketed and distributed under GATEWAY's or GATEWAY Subsidiaries' brandnames and trademarks. Windows 95 may not be distributed with Customer Systems which are marketed or distributed under any third party brandnames or trademarks.

(11) In addition to the required Customer System components specified in the Customer System section of this Exhibit C, Customer Systems distributed with Windows 95 must include a hard disk drive, except for direct sales to major account end user customers that request systems without hard disk drives.

(12) Provided GATEWAY complies with all terms and conditions of this Agreement, for purposes of Section 3 of the Royalty Calculation provisions of this Exhibit C, preinstallation of multiple language versions of Windows 95 performed in accordance with the instructions for multiple language installation provided in the OPK shall constitute "one language" version. In such event, GATEWAY shall pay the highest royalty applicable to the language versions distributed.

(13) In addition to shipping a copy of Windows 95 preinstalled on Customer Systems, GATEWAY may ship the "Emergency Boot Disk" component of the OPK preinstalled on its portable and desktop computers.

(14) "Beta Upgrade" shall mean a replacement copy of Product provided by GATEWAY separate from a Customer System directly to an existing authorized end-user of the Beta Evaluation (as specified in the chart below) on GATEWAY's Customer System. Notwithstanding the provisions of Section 6(a), GATEWAY may distribute the Product in the form of Beta Upgrade. GATEWAY may distribute to an end user not more than one (1) unit of Beta Upgrade for each unit of Beta Evaluation previously distributed by GATEWAY to such end user. GATEWAY shall identify all Beta Upgrade as "Beta Upgrade" on GATEWAY's royalty reports. GATEWAY may distribute Beta Upgrade Product only directly to end users, or as a mail order fulfillment item directly to end users from GATEWAY or a MS designated fulfillment source. The packaging for Beta Upgrade shall indicate that it is intended as an "Upgrade" only (or similar wording) and not for use by a new customer. Copies of Product not strictly in conformance herewith shall not be considered Beta Upgrade. GATEWAY's license to distribute Beta Upgrade shall expire two (2) months after the date that MS advises OEM Customers that Windows 95 may be distributed (in accordance with Additional Provision (a)(6) above).

Beta Evaluation:

Microsoft Windows 95 Final Beta Release (M8)

Beta Upgrade:

Microsoft Windows 95

(15) GATEWAY shall pay MS a reduced royalty of Zero Dollars (US\$0.00) for units of Beta Upgrade which GATEWAY distributes in compliance with all of the following conditions:

(i) GATEWAY distributes the Beta Upgrade for no charge except GATEWAY's reasonable costs of materials, manufacture, postage and handling; and

(ii) GATEWAY correctly reported to MS and paid the royalty for the Beta Evaluation.

(16) Notwithstanding any contrary provision of the Agreement, the price charged GATEWAY for Windows 95 at any time during the term of the Agreement will be no higher than the price charged by MS to any person who has (1) met to the same or any lesser degree as GATEWAY the milestones, product mixes, guidelines or other tasks analogous to those included in any then-applicable promotional, market development, "partnering" or other, similar type of arrangement between MS and any person; and (2) purchased the same or lesser amount of such Product per unit of time from MS as has GATEWAY.

EXHIBIT C
(Continued)

ADDITIONAL PROVISIONS KEY - WINDOWS 95, WINDOWS, WINDOWS FOR WORKGROUPS, MS-DOS AND WINDOWS NT WORKSTATION

- (b) "Windows Product(s)" shall mean Windows, Windows for Workgroups, and/or Windows 95 licensed under this Agreement For Customer Systems licensed for more than one Windows Product on a per system basis -- GATEWAY may distribute only one of such Products with any Customer System. In such event, GATEWAY agrees to pay MS the royalty for the Product distributed with the Customer System, or, if the licensed Customer System is distributed without any such Product, the royalty for Windows 95.
- (c) Windows for Workgroups version 3.11 includes Microsoft At Work fax transmission software, which provides methods for stand-alone and networked computers to send and receive fax messages with certain security levels. French law (Decree 92-1358 of December 1992) generally prohibits the use in France of such technology, unless special approvals are granted. Accordingly, OEMs should provide only the version of Windows for Workgroups version 3.11 designed for France to avoid violating the Decree.
- (d) GATEWAY shall not advertise, publish or otherwise mark a separate price for the Product.
- (e) (1) The PRC language version of this Product is available with only simplified Chinese character fonts licensed from a third party. GATEWAY acknowledges that such fonts may differ in quality and characteristics to Chinese character fonts available in other Microsoft Products.
- (2) The PRC language version of this Product is available only through selected Authorized Replicators as specified in MS. From time to time, MS shall provide an updated list of Authorized Replicators through which the PRC language version of this Product is available.
- (3) The packaging for the PRC language version of this Product distributed with Customer Systems within or to the PRC shall be clearly marked in both English and simplified Chinese. "Not for distribution or use outside the People's Republic of China."
- (f) If Customer System(s) licensed for this Product under this Exhibit C are also licensed for this Product under another agreement, then:
- (1) GATEWAY license to distribute the Product with such Customer Systems under the other agreement shall expire as of the end of the calendar quarter in which the Effective Date of this Agreement or the Amendment Date of the Amendment adding this Exhibit C, as applicable, occurs; and
- (2) GATEWAY shall pay and report for the Product, and this Agreement shall apply to the Product, for such Customer Systems thereafter.
- (g) In addition to shipping a copy of MS-DOS preinstalled on Customer Systems, GATEWAY may ship emergency boot files preinstalled on its portable and desktop computers. Such files shall be restricted to those partial MS-DOS files necessary for rebooting a Customer System.
- (h) (1) For Windows NT Workstation, GATEWAY agrees to provide quarterly sales out, and business and government institution sales reporting. Reporting shall include by country the state and zip or postal codes, quantity of units, part description, and indication of MS field sales assistance. MS will provide and may revise the reporting format from time-to-time during the term of the Agreement.
- (2) In order to support end-users of this Product, GATEWAY agrees to employ at all times at least one support technician who has successfully completed, at GATEWAY's expense, the Microsoft Certified Professional program for this Product.
- (3) Though the Product Deliverables for this Product may include versions of the Product designed for other types of microprocessors, GATEWAY is licensed to distribute the Product only with and for use on Customer Systems based on the Intel x86, Pentium or compatible architecture.
- (i) The royalty rate(s) specified above require pre-installation of the Product on each Customer System distributed with the Product. Notwithstanding the foregoing, GATEWAY may distribute Windows NT-Workstation without preinstalling on the hard drive if end users request such; and provided such shipments do not exceed more than ten (10) percent of GATEWAY Windows NT-Workstation shipments per quarter

(j) The following shall apply to shipments and pricing for Windows-NT Workstation: notwithstanding anything to the contrary contained in Section 3 of the Agreement, if in any two quarterly reporting periods (whether or not consecutive), GATEWAY's reported shipments of the Product with applicable Customer Systems are twenty percent or more below GATEWAY's estimated quarterly volume specified for the Product in the Product table above, GATEWAY and MS shall negotiate an increase in the per copy royalty rate(s) to reflect GATEWAY's lower shipment volumes. If, for any reason, MS and GATEWAY are unable to agree upon new royalty rate(s) within thirty (30) days after the date GATEWAY's royalty report is due after the second such low volume quarter, GATEWAY's per copy Uplift Royalty rate(s) for the Product shall increase by fifty percent (50%). Such increased royalty rate(s) shall be in effect for the remainder of the term of the Agreement commencing with the monthly reporting period following the second low-volume quarter. Provided, however, if GATEWAY's reported quarterly volume returns to or exceeds the original estimated quarterly volume for any two (2) consecutive quarters thereafter, then GATEWAY's per copy Uplift Royalty rate(s) shall be restored to the rate(s) specified in the Product table above commencing with the monthly reporting period following such two consecutive quarters.

CUSTOMER SYSTEMS

GATEWAY'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 (this configuration shall not preclude access by other users over a network/dial-in line via use of networking features in the Product); (ii) are designed to use a video display and keyboard; and (iii) include at least a CPU, a motherboard, a power supply, and a case. Each listed Customer System must have a unique model line name, model name, or model number which GATEWAY uses both internally (in GATEWAY's books and records) and externally (on the Customer System case and packaging). For each Product which GATEWAY chooses to license for distribution with the listed Customer System, the letter "s" or "c" in the relevant box indicates whether GATEWAY is licensing the Product on a "per system" or "per copy" basis, respectively. New models may be added by agreement of the parties.

At GATEWAY's option, for purposes of administrative convenience, GATEWAY may designate models 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 model line or series shall include all present 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.).

In the event that GATEWAY designates models by model line or series in this Exhibit C, then GATEWAY may elect to include as Customer System(s) new models within such model line or series by including any such new model(s) on its royalty report for the reporting period in which each such new model is first distributed with the Product. Unless otherwise agreed to by the parties prior to GATEWAY's first distribution of a new model with the Product, each such new model designated on a royalty report shall be licensed for the remainder of the term of the Agreement on the same basis (i.e., per system or per copy) as the other models in the model line or series and shall bear the applicable royalty set forth in this Exhibit C. Any new model in the model line or series which is not included in a royalty report as a licensed Customer System (and is thus not licensed for the applicable Product) must have a unique model number or model name used for internal and external identification purposes which distinguishes it from any model which GATEWAY has designated previously as a Customer System.

EXHIBIT C
(Continued)

Product Number Key: 1 = Windows 95; 2 = Windows for Workgroups 3.11; 3 = Windows 3.11; 4 = MS-DOS 6.2; 5 = Enhanced Tools for MS-DOS 6.2;

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

	Model Name or Model Number	Processor Type	Product Number				
			1	2	3	4	5
1.	Gateway Professional Systems (as advertised in publications)	486. Pentium	S	S	S	S	S
2.	Gateway Family PCs (as advertised in publications)	486. Pentium	S	S	S	S	S
3.	Gateway Colorbook 2	486. Pentium	S	S	S	S	S
4.	Gateway Liberty	486. Pentium	S	S	S	S	S
5.	Gateway Solo	486. Pentium	S	S	S	S	S
6.	Gateway 10th Anniversary Systems	Pentium	S	S	S	S	S
7.							
8.							
9.							
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17.							
18.							
19.							
20.							

EXHIBIT C
(Continued)

Product Number Key: 1 = Windows 95; 2 = Windows for Workgroups 3.11; 3 = Windows 3.11; 4 = MS-DOS 6.2; 5 = Enhanced Tools for MS-DOS 6.2

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

	Model Name or Model Number	Processor Type	Product Number				
			1	2	3	4	5
21.							
22.							
23.							
24.							
25.							
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38.							
39.							
40.							

Notwithstanding the foregoing, GATEWAY may exclude from royalty calculations the following Customer Systems:

1) On bid quotations for at least 200 desktop systems or 100 portables for shipment within one year of award of contract, provided that:

a) GATEWAY identifies any such bids by customer and reports to MS monthly and;

b) such Customer Systems are not distributed with Product.

This information is confidential to GATEWAY, is protected under Section 13 of the Agreement and will only be used by MS to ensure the legality of any MS software that may be used on such systems by the named customers.

2) That are distributed without Product to another MS OEM which is licensed by MS for the Product. Gateway shall identify all such Customer Systems on its royalty reports.

EXHIBIT C.1
WINDOWS 95 UPGRADE - PER SYSTEM

* If royalty rate and Maximum Number of Units of Product are not specified for a particular Product, then such Product is not licensed under this Agreement.

** Language Key: EN = English, FF = France French, D = German, J = Japanese

Product Name and Version	Language Version(s) **	Applicable Additional Provisions	Royalty/Basis *	Maximum Number of Units of Product *	Added by Amendment Number
Windows® 95 Upgrade	EN	(a), (b), (c), (d), (e), (f), (g), (h), (i)	US\$ \$42 per Customer System	N/A	1
Windows® 95 Upgrade	FF, D	(a), (b), (c), (d), (e), (f), (g), (h), (j)	US\$ \$48 per Customer System	N/A	1
Windows® 95 Upgrade	J	(a), (b), (c), (d), (e), (g), (h), (j)	US\$ \$48 per Customer System	N/A	1

ROYALTY CALCULATION, ORDER, AND PAYMENT

- GATEWAY agrees to pay MS the English royalty rate set forth above for each Customer System shipped in North America and identified in Exhibit C commencing (A) June 14, 1995 until (B) August 24, 1995 or such earlier time, if any, that MS authorizes GATEWAY to begin shipping Windows 95 preinstalled on its Customer Systems ("Per System Upgrade Period"). Notwithstanding the foregoing, GATEWAY shall have no obligation to pay the Windows 95 royalty on the first 100,000 Customer Systems shipped or any Customer Systems shipped on or before July 15, 1995, whichever occurs first. GATEWAY shall pay the royalties for MS-DOS, Enhanced Tools for MS-DOS and Windows for Workgroups, as applicable, on such Customer Systems.
- GATEWAY agrees to pay MS the English royalty rate set forth above for each Customer System shipped with English Product in Europe commencing July 14, 1995 until MS authorizes GATEWAY to begin shipping Windows 95 preinstalled on its Customer Systems ("Per System Upgrade Period").
- GATEWAY agrees to pay MS the French and German royalty rate set forth above for each Customer System shipped with French and German Product in Europe commencing July 14, 1995 until MS authorizes GATEWAY to begin shipping Windows 95 preinstalled on its Customer Systems ("Per System Upgrade Period").
- GATEWAY agrees to pay MS the Japanese royalty rate set forth above for each Customer System shipped with Japanese Product in Japan commencing September 15, 1995 until MS authorizes GATEWAY to begin shipping Windows 95 preinstalled on its Customer Systems ("Per System Upgrade Period"). GATEWAY's license to distribute this Product shall expire January 31, 1996.

ADDITIONAL PROVISIONS KEY

- GATEWAY agrees that it will not distribute Product until MS advises its OEM customers generally that Customer Systems with Windows 95 may be distributed.
- Notwithstanding anything to the contrary contained in Sections 2 and 6 of the Agreement, GATEWAY shall distribute the Product only in the form/packaging available from the Authorized Replicator.
- Notwithstanding anything to the contrary contained in Sections 2 and 6 of the Agreement, GATEWAY may distribute the Product only as an "upgrade" provided by GATEWAY separate from a Customer System directly to an existing authorized end-user of the Prior Product (as specified in the chart below) on Customer Systems distributed during the Per System Upgrade Period.

Prior Product

Windows 3.11

Windows for Workgroups 3.11

Product

Windows 95 Upgrade

Windows 95 Upgrade

- GATEWAY may only distribute the Product either (i) directly (without use of dealers or other intermediaries) to end users, or (ii) as a mail order fulfillment item directly (without use of dealers or other intermediaries) to end users from GATEWAY or an MS designated fulfillment source.

- (e) The packaging for the Product shall indicate that it is intended as an "Upgrade" only (or similar wording) and not for use by a new customer.
- (f) GATEWAY's license to distribute this Product shall expire October 30, 1995.
- (g) GATEWAY shall acquire the Product through one Authorized Replicator of GATEWAY's choice. GATEWAY shall notify MS of the Authorized Replicator through which GATEWAY will acquire the Product prior to placing the first order for Product.
- (h) GATEWAY agrees to provide commercially reasonable end user support for Windows 95 licensed in the Agreement which shall be under terms and conditions at least as favorable to the end user as the terms under which GATEWAY provides support for GATEWAY's Customer Systems to end users generally. GATEWAY agrees to provide MS with ninety (90) days prior written notice of any substantive change in GATEWAY's support policy for Windows 95.
- (i) This Product may only be distributed to end user customers located within the geographical boundaries of the United States of America, Canada and the European Community.
- (j) These Products may only be distributed to end user customers located within the geographic boundaries of the European Community and Japan.

EXHIBIT C 2
WINDOWS 95 UPGRADE - PER COPY

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

** Language Key: EN = English

Product Name and Version	Language Version(s) **	Applicable Additional Provisions	Royalty/Basis *	Maximum Number of Units of Product *	Added by Amendment Number
Windows® 95 Upgrade	EN	(a), (b), (c), (d), (e), (f), (g), (h), (i)	US\$ \$58 per Copy	N/A	1

ROYALTY CALCULATION, ORDER AND PAYMENT

1. GATEWAY agrees to pay MS the royalty rate set forth above for each copy of Product distributed by GATEWAY.

ADDITIONAL PROVISIONS KEY

(a) GATEWAY agrees that it will not distribute Product until MS advises its OEM customers generally that Customer Systems with Windows 95 may be distributed.

(b) Notwithstanding anything to the contrary contained in Sections 2 and 6 of the Agreement, GATEWAY shall distribute the Product only in the form/packaging available from the Authorized Replicator.

(c) Notwithstanding anything to the contrary contained in Sections 2 and 6 of the Agreement, GATEWAY may distribute the Product only as an "upgrade" provided by GATEWAY separate from a Customer System directly to an existing authorized end-user of the Prior Product (as specified in the chart below) on any GATEWAY Customer System distributed prior to June 14, 1995.

Prior Product

Windows 3.0, 3.1, 3.11

Windows for Workgroups 3.1, 3.11

Product

Windows 95 Upgrade

Windows 95 Upgrade

(d) GATEWAY may only distribute the Product either (i) directly (without use of dealers or other intermediaries) to end users, or (ii) as a mail order fulfillment item directly (without use of dealers or other intermediaries) to end users from GATEWAY or an MS designated fulfillment source.

(e) The packaging for the Product shall indicate that it is intended as an "Upgrade" only (or similar wording) and not for use by a new customer.

(f) GATEWAY's license to distribute this Product shall expire December 31, 1995.

(g) GATEWAY shall acquire the Product through one Authorized Replicator of GATEWAY's choice. GATEWAY shall notify MS of the Authorized Replicator through which GATEWAY will acquire the Product prior to placing the first order for Product.

(h) GATEWAY agrees to provide commercially reasonable end user support for Windows 95 licensed in the Agreement which shall be under terms and conditions at least as favorable to the end user as the terms under which GATEWAY provides support for GATEWAY's Customer Systems to end users generally. GATEWAY agrees to provide MS with ninety (90) days prior written notice of any substantive change in GATEWAY's support policy for Windows 95.

(i) This Product may only be distributed to GATEWAY end user customers located within the geographical boundaries of the United States of America and Canada.